

(2005) 02 KAR CK 0054

In the Karnataka High Court

Case No : M.F.A. No's. 2538 and 5525 of 2003

V.R. Manjunath and Others

APPELLANT

Vs

Special Land Acquisition Officer and Others

RESPONDENT

Date of Decision : 21-02-2005

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 11 (iii), 18 (1), 23 (1-A), 4 (1)

Citation : (2005) ILR (Kar) 4320 : (2006) 3 KarLJ 570 : (2005) 4 KCCR 317 SN

Hon'ble Judges : P. Vishwanatha Shetty, J;H.G. Ramesh, J

Bench : Division Bench

Advocate : K.C. Shivasubramanian and Ashok Haranahalli, for the Appellant;
K.P. Ashok Kumar, AGA for R-1, Ashok Haranahalli, for R2 to R4 and K.C.
Shivasubramanian, for R1 to R4, for the Respondent

Judgement

Vishwanatha Shetty, J.—These appeals are directed against the common judgment and award dated 30th of January 2003 made in LAC No. 331/1987 by the Second Additional City Civil Judge at Bangalore determining the market value of the acquired lands which is the subject matter of the dispute in these appeals at Rs. 370/- per sq. ft.

2. The appellants in MFA No. 2538/2003 were the owners of land measuring, 1,00,473.03 sq. ft. (11,163.67 square yards) with an old building and trees situated at No. 1, Old Madras Road at the end of M.G Road, Bangalore and were the claimants before the Court of the Additional City Civil Judge at Bangalore (hereinafter referred to as the "Reference Court"). The appellants in MFA No. 5525/2003 are the beneficiaries for whose benefit the land referred to above was acquired. While it is the grievance of the claimants that the compensation determined by the Reference Court is on the lower side and it is the grievance of the beneficiaries that the compensation determined by the Reference Court is on the higher side. Therefore, both the claimants and beneficiaries, as observed by us earlier have presented these appeals.

3. The facts in brief:

A preliminary notification came to be issued by the Land Acquisition Officer u/s 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as the "Act") on 24th January 1983 proposing to acquire the land referred to above for the purpose of construction of public utility administrative building by the beneficiaries. Subsequently, final notification came to be issued by the Land Acquisition Officer on 12th September 1984. The Land Acquisition Officer made an award on 31st of December 1985 which came to be approved by the State Government u/s 11(iii) of the Act on 22nd September 1986. The possession of the acquired land was taken by the Land Acquisition Officer on 10th April 1987. The Land Acquisition Officer determined the market value of the vacant lands at Rs. 150/- per sq. ft. However, he determined the value of the structure on the acquired lands at Rs. 2,80,338/- and the value of the trees situated on the acquired land at Rs. 7,492/-.

The claimants being dissatisfied with the determination of the market value sought reference u/s 18(1) of the Act to the Reference Court. In the course of the proceedings before the Reference Court, the first claimant Sri V.R. Manjunath examined himself as PW1. On behalf of the claimant, the sale deeds dated 25th October 1983 and 8th August 1985 were respectively marked as Exs. P-1 and P2. The purchasers of two items of land covered under two sale deeds dated 25th October 1983 and 8th August 1985 were examined as PW2 and PW3 respectively. The award passed by the Land Acquisition Officer dated 22nd September 1986 was marked as Ex.P-3. On behalf of the Land Acquisition Officer, he examined himself as RW1. On behalf of the beneficiaries, Sri. Srinivas Murthy, Assistant General Manager of the beneficiaries was examined as DW2. However, no documents were produced either on behalf of the Land Acquisition Officer or on behalf of the beneficiaries before the Reference Court.

The Reference Court, on consideration of the evidence on record, as noticed by us earlier, determined the market value of the acquired land at Rs. 370/- per sq. ft. No compensation was awarded towards the structure. The Reference Court also awarded the statutory interest, solatium and the additional amount over enhanced compensation @ 12% p.a. from the date of preliminary notification till the date of the award i.e. from 24th January 1983 to 22nd September

4. Sri Shivasubramanian, learned Counsel appearing for the claimants challenging the correctness of the market value determined by the Reference Court strongly submitted that the Reference Court has seriously erred in law in not relying upon the sale transaction covered under Ex.P-1 dated 25-10-1983. He submitted that since the land covered under Ex.P-1 is situated within a distance of about 2 furlongs from the acquired land and it is similarly and identically situated to the acquired land, the Reference Court should have taken into account the market value shown in the sale deed Ex.P-1. It is his submission that merely because the sale transaction covered under Ex.P-1 was executed subsequent to the date of preliminary notification, the Reference Court was not justified in rejecting the aforesaid sale transaction. In this connection, he relied

upon a judgment of the Supreme Court in Administrator General of West Bengal Vs. Collector, Varanasi, . He further submitted, since the evidence of PW1 and RW1 clearly establishes that the acquired land is situated in the heart of Bangalore City and very close to the land covered under the sale deeds Exs.P-1 and P-2 and has always been a commercial property situated adjacent to two commercial buildings like Hotel Kamadhenu and Lido Theatre, the Reference Court should have determined the market value of the acquired land at Rs. 500/- per sq. ft. It is his submission that larger the extent of land situated in an urban area like the acquired land, the commercial value of such land is more as the said land could be used for construction of a large commercial complex. It is his further submission that since the property covered under sale deed Ex.P-2 was a tenanted property, the market value shown in the said sale deed was much less than the market value of similarly situated property which is free from tenancy and this aspect of the matter has been completely overlooked by the Reference Court. It is his submission that the evidence on record shows that acquired land is a fully developed commercial property situated in a fully developed area and within a distance of around 4 kilometres from this Court and as such the appeal filed by the claimants may be allowed by enhancing the compensation as prayed for.

5. Sri Ashok Haranahalli, learned Counsel appearing for the beneficiaries while strongly contending that the compensation determined by the Reference Court is on the higher side made six submissions. Firstly, he submitted that the Reference Court has seriously erred in law in relying upon the sale transaction covered under sale deed Ex.P-2 on the ground that the property covered under sale deed Ex.P-2 cannot be compared to the acquired land. According to the learned Counsel, the property covered under Ex.P-2 is situated in MG. Road which is a well developed commercial area and the property acquired is situated at a place known as "Ulsoor" at a distance of more than 2 furlongs from the property covered under Ex.P-2. Secondly, he submitted that the extent of area of the land covered under Ex.P-2 being only 13620 sq. ft. and the acquired land being 1,00,473.3 sq. ft., the market value shown in Ex.P-2 could not have been made as a basis for determining the market value of the acquired land. Thirdly, he submitted that the market value shown in sale deed Ex.P-2 being inclusive of the structure standing on the property covered under Ex.P2, the Reference Court has erred in law in making it as basis for determining the market value of the acquired land. Fourthly, he submitted that even if the market value shown in Ex.P-2 is to be taken as basis for determining the market value of the acquired land, the Reference Court should have given substantial deduction towards cost of developmental charges like formation of road, sewerage, water connection and electricity. In support of this submission, Sri. Haranahalli relied upon a judgment of the Supreme Court in Basant Kumar and Others Vs. Union of India (UOI) and Others, wherein the Supreme Court has taken the view that even in respect of the developed land, atleast 33 1/3% of the market value determined should be deducted towards providing amenities like roads, parks, electricity, sewerage,

water facilities etc., Fifthly, he submitted that the Reference Court has seriously erred in law in granting 10% escalation on the ground that there was appreciation in the market rate of the acquired land from the date of agreement relating to the property covered under sale deed Ex.P-2 and the date of issue of preliminary notification in respect of the acquired land. He pointed out that in the absence of positive evidence adduced by the claimants to show that there has been increase in market value of the acquired land from the date of agreement entered into in respect of sale transactions covered under Ex.P-2 till the date of preliminary notification, the learned Judge was totally not justified in granting 10% escalation. Sixthly, he submitted that the Reference Court should have determined the additional compensation from the date of preliminary notification till the date of award made by the LAO i.e. 31st December 1985 and not till the date on which the award made by the LAO came to be approved by the State Government on 22nd September 1986.

6. In the light of the rival submissions advanced by the learned Counsel appearing for the parties, the only question that would arise for consideration in these appeals is what is the just and fair market value payable to the acquired land?

7. Now, we will proceed to consider the submission of Sri. Shivasubramanian that the Reference Court was totally unjustified in not relying upon sale deed Ex.P-1. The sale deed Ex.P-1 is dated 25th October 1983. The preliminary notification is dated 24th of January 1983. Therefore, it is clear that the sale deed Ex.P-1 had come into existence nearly nine months after the date of preliminary notification. The extent of land covered under sale deed Ex.P-1 is 540 sq. ft. It is not a case where there is no other comparative sale transaction on the basis of which the market value of the land in question cannot be decided. There is no evidence to show that the market value of the land remained stable from the date of preliminary notification and the date of sale deed Ex.P-1. The Reference Court has relied upon Ex.P-2 to determine the market value of the acquired land. Under these circumstances, we are of the view that since the sale deed Ex.P-1 has come into existence long after the date of preliminary notification, the Reference Court was fully justified in the facts and circumstances of the case in rejecting the said sale deed. The observation made by the Supreme Court in *Administrator General of West Bengal Vs. Collector, Varanasi*, supra relied upon by Sri. Shivasubramanian has no application to the facts of the present case. It is necessary to point out that at para 6 of the judgment, the Supreme Court while taking the view that subsequent transactions which are not proximate in point of time to the acquisition can be taken into account for purposes of determining whether as on the date of acquisition there was upward trend in the prices of land in the area has clearly laid down that the said principle could be applied to only where there is evidence to the effect that there was no upward surge in the prices in the interregnum and the burden of establishing the same would be squarely on the party relying on such subsequent transaction.

8. In the present case, as noticed by us earlier, there is a sale transaction covered under Ex.P-2, which is a larger area than the area covered under Ex.P-1 and it is also situated close to the acquired land. The transaction relating to the property covered under Ex.P-2 was prior to the date of preliminary notification. Under these circumstances, we are of the view that the Reference Court was fully justified in rejecting the sale transaction covered under Ex.P-1.

9. The next question that would arise for consideration is as to whether the compensation determined by the Reference Court requires to be reduced on the grounds urged by Sri. Ashok Haranahalli. The Reference Court has relied upon the sale deed Ex.P-2 to determine the market value of the acquired land. No doubt, as rightly pointed out by Sri Ashok Haranahalli, the Reference Court was wholly wrong in proceeding to determine the market value relying upon the observation made in the judgment of his predecessor which came to be set-aside by this Court in the appeal filed challenging the said judgment. But, the question is, on consideration of the evidence on record, what should be the fair and just compensation payable to the claimants? The sale deed Ex.P-2 relates to a property purchased in a private auction held on 21st October 1981 and pursuant to the said sale, an agreement of sale came to be executed on 16th December 1981. Since the seller happened to be a foreign national, the permission for sale of the land as provided under the provisions of the Foreign Exchange Regulation Act, 1983 was sought, and the permission came to be granted only on 24th November 1984 and thereafter the sale deed Ex.P-2 came to be executed on 8th August 1985. The fact that the auction was held on 21st October 1981 and thereafter agreement to sell the land was executed on 16th December 1981 is not in serious dispute. The sale consideration also came to be fixed on the date of auction. The property covered under Ex.P-2 is 13620 sq. ft. and is situated within a distance of about 11/2 furlongs from the acquired property according to the evidence of PW. 1 RW1 in his evidence has admitted this position. The evidence of PW1 shows that the acquired land is a fully developed land. He has stated in his evidence that several commercial and nationalised banks have branches in the vicinity of the acquired land and in the land adjoining the acquired land, the Old Lido Theatre is located and the same has been in existence from 1965; the Ulsoor market is just 2 metres away from the acquired land and RBANMs School and College have been in existence; M G Road is at a distance of one furlong from the acquired land and the surrounding area of the acquired land was fully developed and was within the corporation limits. In the cross-examination, he has stated that somewhere in the year 1976 Taj Residency building was built. Kamadhenu Hotel which is a Three Star Hotel is situated in property No. 1/2 and it is situated adjoining the acquired land and the said hotel has been in existence ever since the year 1970. He has further stated that the Vijaya Bank Head Office building had been put up by the side of Taj Residency 2 to 3 years prior to the publication of the notification and the approximate distance between Vijaya Bank Head Office building and acquired land is about 200 yards and the approximate distance between the acquired land and State

Bank of India branch building is about 200 to 300 yards. He has also stated that Vijaya Bank Head Office building, Oberon Hotel and Taj Residency are by the side of M.G Road near the junction. The evidence of PW1 is fairly corroborated by RW1 in his evidence. In this connection, it is useful to refer to his evidence, which reads as hereunder:

"I have been residing in Bangalore since 1987. I know about MG Road in Bangalore City. It is true that it is a prominent locality in Bangalore. It is true that the acquired property is situated at the end of the MG Road. It is true that said acquired property is situated in between Lido Theatre and Kamadhenu Hotel. It is true that if one comes from acquired property to the MG Road first there is Taj Residency Five Star Hotel and by the side of it there is Vijaya Bank Administrative Building and thereafter there is Oberon Star Hotel. It is true that Ex.PS is the award passed by the LAO in this case. I have no idea if around the year 1983 there were only four Sub-Registrar's Office in Bangalore."

10. From the evidence of PW1 and RW1 it is clear that the acquired land is a fully developed commercial property with water connection, electricity and other amenities and it is a levelled property. It cannot be disputed that the same is situated in a prime location in the heart of Bangalore City. Sri Ashok Haranahalli is unable to dispute the assertion of Sri. Shivasubramanian that the acquired land is situated within a distance of around 4 kilometres from Vidhana Soudha and the High Court.

11. As noticed by us earlier, the evidence of PW1 and RW1 clearly shows that the acquired land is a fully developed commercial property. Therefore, merely because the acquired land is 1,00,473.03 sq. ft. as against the area of land covered under sale deed Ex.P-2 is 13620 Sq. ft. it is not possible to accede to the submission of Sri. Ashok Haranahalli that the sale consideration shown in Ex.P-2 cannot be taken as the basis to determine the market value of the acquired land. Merely because the distance between the acquired land and the property covered under sale deed Ex.P-2 is about 1 to 11/2 furlongs, in our view, is not a ground to take the view that the market value of the acquired land is less than the value shown in sale deed Ex.P-2. As noticed by us earlier, the acquired land is situated in between Lido Theatre and Kamadhenu Hotel. Vijaya Bank Head Office is located very close to Hotel Oberoi which is a Five Star Hotel. All these commercial buildings are very close to the acquired land. Therefore, all these shows that the acquired land has greater potentiality so far as the market value is concerned. Therefore, as noticed by us earlier, merely because the acquired land is situated at a distance of 11/2 furlongs from the acquired land, in our view, in the facts and circumstances of the present case, it is not a ground not to take into consideration the market value shown in Ex.P-2 to determine the market value of the acquired land. It is no doubt true that the extent of the land covered under Ex.P-2 is only 13620 sq. ft. whereas the extent of acquired land is 1,00,473.03 sq. ft. In our view, having regard to the location of the acquired land, the potentiality of the said land being utilised for construction of bigger

commercial complexes, it has its own advantages in cities like Bangalore. Therefore, merely because the extent of acquired land is larger in area than the property covered in Ex.P-2, in our view, there is no justification to not to take into account the sale consideration shown in Ex.P-2 and treat the property covered in Ex.P-2 as a comparable land to the acquired land. We are also unable to accede to the submission of Sri. Ashok Haranahalli that since the sale consideration shown in sale deed Ex.P-2 is inclusive of structure standing on the property covered under Ex.P-2, the sale consideration shown in Ex.P-2 should not be made as a basis to determine the market value of the acquired land. It is necessary to point out that the evidence on record shows that the structure standing on the property covered under Ex.P-2 is more than 100 years old. Further, the evidence on record shows that it was a tenanted property. Generally the tenanted property gets lesser price than the property which is free from tenancy. Therefore, if this aspect of the matter is also taken into consideration, we are of the view that it would be fair and reasonable to take the market value shown in Ex.P-2 as the basis for determining the market value of the acquired land.

12. It is true in the case of Basant Kumar (Supra) relied upon by Sri. Haranahalli, the Supreme Court, has observed that even in respect of developed land, atleast 33.1/3% of the market value determined should be deducted towards providing amenities like roads, parks, electricity, sewerage, water facilities etc., In our view, the principle laid down by the Supreme Court in Basant Kumar (Supra) has no application to the facts of the present case. It is in cases where larger extent of land is acquired, the Supreme Court has taken the view atleast 33 1/3% of the market value of acquired land determined should be deducted towards providing amenities like roads, parks, electricity, sewerage, water facilities etc., In the instant case, as noticed by us earlier, the total extent of acquired land is 1,00,473.03 sq. ft. It is in a compact block and the said land can be utilised without forming it as building sites for which separate facilities like water, road, sewerage etc. will have to be provided. The acquired land, as noticed by us earlier, has an advantage of being utilised as single unit for the purpose of putting up commercial complexes. Therefore, we are unable to accede to the submission of Sri. Ashok Haranahalli that atleast 33. 1/3% of the total compensation determined in respect of acquired land should be deducted towards providing amenities like roads, parks, electricity, sewerage, water facilities etc.

13. The next question that requires to be considered is, whether the Reference Court was justified in granting 10% escalation from the date of agreement entered into between the parties for purchase of property covered under Ex.P-2 to the date of issue of preliminary notification in respect of the acquired land. As noticed by us earlier, the acquired land is situated in the heart of Bangalore City and in a commercial locality surrounded by large number of business establishments. No doubt, PW1 has not stated in his evidence that from the date of agreement till the date of preliminary notification there has been a substantial

increase in the market price of the acquired land. However, he has stated in his evidence that there has been an upward trend in the market price for the last 20 years. The Reference Court has granted 10% escalation for a period of one year. The Supreme Court in the case of *The Special Land Acquisition Officer, BTDA, Bagalkot Vs. Mohd. Hanif Sahib Bawa Sahib*, relied upon by Sri Shivasubramanian has approved 10% escalation per annum. In the aforesaid judgment, the Apex Court has held that on facts, appreciation at the rate of 10% p.a. for every subsequent year after the base year (price Rs. 3 per sq. ft) was neither excessive nor unreasonable for land in an area which was within municipal limits. Further, the Division Bench of this Court in the case of *H. Narayaniah and etc. Vs. The Land Acquisition Officer, Bangalore*, has approved 10% escalation per annum. Therefore, if the nature, extent and location of the property acquired are taken into consideration, we are of the view that 10% escalation granted by the Reference Court cannot be said to be either excessive or unreasonable. Therefore, we are unable to accede to the submission of Sri. Ashok Haranahalli that the Reference Court was not justified in granting 10% escalation.

14. The other question that remains to be considered is as to whether the date of actual signing of the award or the date of approval of the award from the date of preliminary notification is required to be considered for the purpose of granting additional amount in terms of Section 23(1 -A) of the Act? It is not in dispute that the award was signed by the Land Acquisition Officer on 31st December 1985. However, the same was approved by the Government only on 22nd September 1986. Section 23(1 -A) provides for award of additional amount by way of compensation calculated @ 12% p.a. on such market value for the period commencing on and from the date of publication of the notification issued under Sub-section (1) of Section 4 of the Act in respect of the acquired land to the date of the award of the Land Acquisition Officer or the date of taking possession of the land whichever is earlier. In this case, it is the submission of Sri Shivasubramanian since the award was approved by the Government on 22nd of September 1986, the date of the award for the purpose of granting additional amount in terms of Sub-section (1 A) of Section 23 of the Act is the date of approval i.e. 22nd of September 1986 and not on the date on which the award came to be signed by the Land Acquisition Officer i.e. 31st December 1985. In this connection, he pointed out since the proviso to Section 11 of the Act provides that no award shall be made by the Land Acquisition Officer u/s 11 without the previous approval of the appropriate Government or such Officer as the State Government appoint, till the award is approved by the State Government or such Officer as may be appointed by the State Government, in the eye of law, writing or signing of the award by the LAO cannot be considered as an award made and therefore, for the purpose of granting additional amount in terms of Sub-section (1-A) of Section 23 of the Act, the date of approval of the award by the State Government alone should be considered as the date of making of the award. It is his submission that till the award made by the LAO is

approved by the State Government, there is no award made in the eye of law; and the object of Sub-section (1-A) of Section 23 of the Act, being to provide additional amount to the market value @ 12% p.a. calculated on the market value awarded as compensation to the land owner who is deprived of the land, while interpreting the proviso, this Court should take into consideration the object of the legislation and take the view that the date of the award means the date on which the award came to be approved by the State Government. However, it is the submission of Sri Ashok Haranahalli since, admittedly in this case, the award was signed by the LAO on 31st December 1985, the award is deemed to have been made on the said date. According to the learned Counsel, once the approval is granted by the State Government, the approval granted relates back to the date of signing of the award by the Land Acquisition Officer. In support of his submission, he relied upon the observations made by the Full Bench of this Court in the case of Poornaprajna House Building Co-Operative Society, Bangalore v. Bailamma @ Dodda Bailamma and Ors. 1998(3) KLJ 304 and drew our attention to para 29 of the judgment and also the judgment of the Supreme Court in the case of Kaliyappan Vs. State of Kerala and Others, and drew our attention to para 5 of the judgment wherein the Hon'ble Supreme Court has taken the view that the date of the award means the date of signing of the award. In this connection, he also relied upon the judgment of the Supreme Court in the case of Vijayadevi Navalkishore Bhartia and Another Vs. Land Acquisition Officer and Another, and drew our attention to para 9 of the judgment.

15. No doubt the submission of Sri. Shivasubramanian appears attractive, however, in the light of Full Bench judgment in Poornaprajna's Case (Supra) and also in the light of the judgment of the Supreme Court Kaliyappan's Case (Supra); we are unable to accede to his submission. The Full Bench of this Court in Poornaprajna's Case as noticed by us earlier, has taken the view that once the award is approved by the Government, the same relates back to the date of passing of the award. In this connection, it is useful to refer to the observations made by the Full Bench at para 29 of the judgment, which reads as hereunder.

"29. It is the statutory duty of the Land Acquisition Officer to make an award under the Land Acquisition Act. u/s 11(1) of the Act, he has to give a decision regarding compensation payable, though his decision only an offer made on behalf of the Government. Before the said award becomes effective and operative, the approval of the Government is necessary. The approval of the Government can only be granted to an award made by the Land Acquisition Officer which is complete in all respects and must be signed by the Land Acquisition Officer so that the said award may receive the approval of the Government. Where the award is approved without any modification it would relate back to the date on which the award was made by the Land Acquisition Officer. Different considerations may arise where the award is not accepted in its entirety by the Government and the Government thinks it necessary to make certain modifications in the award. In such a case the Land Acquisition Officer has to make an award incorporating the modifications suggested by the

Government. In case the award is made and the sanction is granted by the Government within two years of the final publication of the notification u/s 6 then the signing of the award by the Land Acquisition Officer after the approval granted by the Government may not be necessary. In such a case approval would only be a formality to be observed and cannot be construed as an independent action on the part of the Government in replacing the award made by the Land Acquisition Officer. The question in such a case would be not when the approval was granted, but whether the approval has in fact been granted. In the present case the Land Acquisition Officer had determined the compensation payable for the lands acquired and has made a decision within a period of two years. Approval was granted by the Government within two years after excluding the period during which the stay was in operation. The date of grant of approval, though is a necessary step in the scheme of the Land Acquisition Act, is immaterial so long as the award is signed by the Land Acquisition Officer within the period of two years and also approval granted by the Government within two years".

16. In Kaliyappan's Case (Supra), the Supreme Court has taken the view that making of the award means the signing of the award. It is useful to refer to the observations made at para 5 of the aforesaid judgement, which reads here under:

"5. u/s 11-A of the Act the Collector is empowered to make an award before the expiry of the period of two years from the date of the publication of the declaration u/s 6 of the Act and in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 before the expiry of the period of two years from the date of its commencement. If an award is not made within the prescribed period of two years in either case, it is open to the person interested in the land to approach the Collector and tell him that the acquisition proceeding should be dropped unless the Collector is able to produce before him an award made by him within the period of two years. He may also in such a case question the continuance of the acquisition proceeding in Court. Thus no prejudice will be caused to the person interested in the land. At the same time it would not be open to a person interested in the land to get rid of the acquisition proceeding by avoiding service of notice issued by the Collector within the prescribed period. We are of the view that u/s 11-A of the Act the words "the Collector shall make an award ... within a period of two years from the date of the publication of the declaration " mean that the Collector is empowered to make an award till the expiry of the last date of the period of two years irrespective of the date on which the notice of the award is served upon the persons interested in the land "to make an award" in this Section means "sign the award". That is the ordinary meaning to be ascribed to the words "to make an award". An extended or a different meaning assigned to the words "the date of the award" by this Court in Raja Harish Chandra Raj Singh Vs. The Deputy Land Acquisition Officer and Another, cannot be applied in this case since such an extended or different meaning is neither warranted by equity nor will it advance the object of the

statute. Similarly under the proviso to Section 11-A of the Act the Collector is empowered to make an award within two years from the date of commencement of the Land Acquisition (Amendment) Act, 1894 irrespective of the date on which the notice of award is served on the person concerned. We do not find any analogy between Section 11-A and Section 18 of the Act is so far as the above question is concerned. The High Court was, therefore, right in rejecting the above contention of the petitioner".

17. In *Vijaya devi's Case* (Supra) the Supreme Court has also observed that the power of granting or not granting previous approval cannot be equated with an appellate power and in the context of an administrative act, the word "approval" does not mean anything more than either confirming, ratifying, assenting, sanctioning or consenting. In this connection, it is useful to refer to the relevant portion of para 9 of the judgment, which reads as hereunder:

"9... In our opinion, this power of granting or not granting previous approval cannot be equated with an appellate power. Black's Law Dictionary, 6th Edn., defines "approval" to mean an act of confirming, ratifying, assenting, sanctioning or consenting to some act or thing done by another. In the context of an administrative act, the word "approval" in our opinion, does not mean anything more than either confirming, ratifying, assenting, sanctioning or consenting. It will be doing violence to the scheme of the Act if we have to construe and accept the argument of the learned Counsel for the respondents that the word approval found in the proviso to Section 11(1) of the Act under the scheme of the Act amounts to an appellate power. On the contrary, we are of the opinion that this only an administrative power which limits the jurisdiction of the authority to apply its mind to see whether the proposed award is acceptable to the Government or not..."

Therefore, even though the Land Acquisition Officer in his communication addressed to the Reference Court has stated that the award was made on 22nd September 1986, the award which has been marked as Ex.P-3 was actually signed by the Land Acquisition Officer on 31st December 1985. Therefore, the Reference Court in our view was not justified in awarding additional amount as provided u/s 23(1 -A) of the Act from the date of preliminary notification till 22nd September 1986 i.e. date on which award came to be approved by the State Government. In our view, the Reference Court should have awarded additional amount in terms of Section 23(1 -A) of the Act from the date of preliminary notification till 31st December, 1985, on which date the award came to be signed by the Land Acquisition Officer. Therefore, the award made by the Reference Court to that extent requires to be modified. Accordingly, it is modified.

18. In terms stated above, M.F.A. No. 2538/2003 filed by the claimants is hereby rejected and M.F.A. No. 5525/2003 filed by the beneficiaries is partly allowed to the extent indicated above. In terms stated above, these appeals are disposed of. Parties are directed to bear their own cost in these appeals.

Sri Ashok Kumar, learned Additional Government Advocate is given four weeks" time to file his memo of appearance.