CALCUTTA METROPOLITAN DEVELOPMENT AUTHORITY AND ANR. A

v.

M/S. DOMINION LAND AND INDUSTRIES LTD. AND ANR.

MAY 9, 1995 B

[N. VENKATACHALA AND S.C. SEN, JJ.]

Land Acquisition Act, 1894/Calcutta Improvement Act, 1911.

Ss.4(1), 6, 9, 10, 11, 23(1), 28/43—Acquisition of land—Compensation—Determination of—Method of belting adopted on hypothetical building layout respecting sale transaction of small plot in vicinity of acquired land—Held, inapposite for determining market value of vast area of land acquired if land is situated in urban locality and determination of market value is possible on basis of earlier sale or agreement to sell, found to be genuine and bonafide, pertaining to portions of very acquired land. C D

The State of West Bengal acquired 8.9.4 bighas of land belonging to respondent no. 1, for appellant No. 1, Calcutta Metropolitan Development Authority, under s.43 of the Calcutta Improvement Act, corresponding to s.4(1) of the Land Acquisition Act, 1894. On service of notices under s. 9 and 10 of the L.A. Act, respondent No. 1 submitted a claim statement to the Collector in respect of the lands acquired mentioning therein the entitlement of respondent no. 2 to a portion of compensation to be awarded for the acquired land under an agreement to sell, entered into between the two respondents on 3.9.1975. Respondent no. 2 also filed a separate claim statement before the Collector for compensation payable to him for the acquired land and which was purchased by him from respondent no. 1. The Collector by his award dated 5.2.1981, awarded total compensation of Rs. 6,33,164 worked out at the rate of Rs. 3,741 per cottah and apportioned the amount between respondent no. 1 and 2 as 4,95,317 and Rs. 1,34,847 respectively. At the instance of the respondents, the Collector made a reference under s.18 of the L.A. Act to Calcutta Improvement Tribunal, which enhanced the compensation to Rs. 4,206 per cottah and determined total compensation as Rs. 7,11,865 respondents No. 1 and 2 still not satisfied, filed two separate appeals in the High Court, which enhanced the compensation to Rs. 7,500 per cottah. Appellant no. 1, though not a party E F G H

A in the reference before the Tribunal and the High Court, filed the appeals, with leave of the Court, against enhancement of compensation.

Allowing the appeals, this Court

HELD : 1.1. The High Court committed a manifest error in deter-
B mining the market value of the acquired land by adoption of the method of belting on the basis of price fetched in sale transaction pertaining to a small plot in the vicinity of the acquired land ignoring the undisputed prior of the very acquired land fixed under the transaction of an agreement to sell entered into between claimants - respondent-1, the seller, and
C respondent-2, the intending purchaser. [132-G-H]

1.2 Where the land acquired under the L.A. Act cannot be turned into building plots for utilisation unless a regular layout of building plots on such land is made by laying of roads, drains and after providing the amenities for user of such plots for the construction of buildings, conform-
D ing to regulations governing formation of such building layouts, it would be inappropriate to determine the market value of such land by resorting to the method of belting. [127-A]

1.3. In any event, adoption of the method of belting or the method of hypothetical Building Layout or the method of Comparable Sales in the
E vicinity, would be inapposite for determining the market value of a vast area of land acquired under LA Act, if such land is situated in an urban locality, and its determination of such market value is possible on the basis of earlier sale/s or agreement/s to sell pertaining to the entire area of the very acquired land or portions of it, which would not have taken place in
F the remote past and are found to be genuine and *bonafide.* [127-C]

2.1. The agreement to sell, pertaining to the very acquired land, executed by respondent-1 in favour of respondent- 2, which is a *bonafide* and genuine transaction, indicates that the market value of the land in the condition in which it was between September 3, 1975 and 3rd March, 1983
G was regarded by the very parties to the agreement to sell at Rs. 4,000 per cottah unless the squatters were evicted from the High land through court or otherwise and the low lying marshy land was filed with outside earth making it fit to be sold as building sites along with the high level land. [132-F, C]

H 2.2. There is no evidence as to the expenditure incurred by respon-

dent-2 in developing the land covered under the agreement to sell and freeing it from squatters. The Collector, taking into consideration the market value of the acquired land as fixed by parties in the agreement to sell, has made his award under Section 11 of the LA Act at Rs. 3,741 per cottah. Accordingly, it would be just and reasonable to fix the market value of the acquired land around Rs. 4,000 per cottah. [134-E]

2.3. The Reference Court, on consideration of certain sale deeds, respecting certain small extents of land in the vicinity of the acquired land, has determined the market value of the land at Rs. 4,206 per cottah, i.e, Rs. 206 per cottah in excess of what was agreed to between the parties, as the market value of the acquired land at the relevant time. As such the market value of the acquire land, in any case, including the time gap that has occurred between the date of agreement to sell and the date of the Notification under Section 4(1) of the LA Act was issued proposing its acquisition, cannot be more than Rs. 4,206 per cottah, even if determined leaning on the side of the claimant-respondents in the matter of awarding compensation to them for the acquired land. The amount of compensation payable for the acquired land is accordingly determined. Amount of compensation for the boundary wall on the acquired land fixed by the Tribunal at Rs. 15,000 shall stand undisturbed. [134-F, H, 135-A]

3. Solatium is awarded at 30 per cent for the total amount of the market value of the acquired land and interest on the enhanced compensation from the date of taking possession of the acquired land to the date of payment of such compensation at the rate of 9 per cent per annum during the first year and during subsequent years at the rate of 15% per annum. [135-C]

4. However, if the respondents in these appeals have received any amount in excess of the said amounts awarded to them under this judgment, they are liable to refund the same with interest thereon at the rate of 12 per cent per annum from the date of such receipt till the date of its repayment to appellant-1. [135-D]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 3553-56 of 1992.

From the Judgment and Order dated 24.1.91 of the Calcutta High

A Court in A.O. Decree Nos. 448 & 449 of 1988.

G.L. Sanghi, N.R. Choudhary and Somnath Mukherjee for the Appellants.

A.K. Ganguli, Rana Mukherjee and M.M. Kshatriya for the Respon-
B dents.

Rathin Das for the Respondent No. 3.

The Judgment of the Court was delivered by

C **VENKATACHALA, J.** Substitution of Calcutta Improvement Trust by Calcutta Metropolitan Development Authority sought for in the I.A.'s. is granted. Transposition of State of West Bengal, as appellant No. 2, sought for in the petition is also granted.

D Calcutta Improvement Trust before its merger with Calcutta Metropolitan Development Authority - appellant-1, required the entire land comprised in Deg. Nos. 1247, 1248, 1249 and 1250 of Mouza Bondel and Deg Nos. 1304 and 1308 of Mouza Kasba, which was a portion of premises No. 42. Bedia Danga 2nd Lane, P.S. Kasba/Jadavpur, Calcutta for the purpose of Calcutta Improvement Trust General Improvement
E Scheme No. III. State of West Bengal, appellant-2 proposed to acquired the said land as required by appellant-1 by issuance of a Notification under section 43 of Calcutta Improvement Act corresponding to Section 4(1) of the Land Acquisition Act, 1894 - the LA Act, published in Calcutta Gazette dated November 2, 1978. Subsequently, when appellant-2 made a
F declaration, as required by Section 6 of the LA Act, the acquisition of the said land was completed. Thereafter, the First Land Acquisition Collector of Calcutta who is representing appellant-2 – the Collector, served notices on the owner of the said acquired land, M/s. Dominion Land & Industries Ltd. - respondent-1, as required by Sections 9 and 10 of the LA Act and invited from it a claim statement for compensation payable for its acquired
G land. A claim statement was accordingly filed by respondent-1, before the Collector, claiming compensation at the rate of Rs. 16,000 per Cottah of solid land, at the rate of Rs. 12,000 per Cottah of marshy land, RS. 50,000 for a boundary wall and Rs. 700 for trees and further statutory allowance at 15 per cent on such compensation. However, in that claim statement a
H mention was made of the entitlement of Shri Kalidas Chakraborty - respon-

dent-2, to a portion of compensation to be awarded for the acquired land, because of an agreement to sell dated September 3, 1975 which had been entered into between respondent-1 and respondent-2 to sell the acquired land. No doubt respondent-2 filed a separate claim statement before the Collector respecting the compensation payable to him for the acquired land. But, that claim statement did not differ in material particular from the claim statement which had been filed by respondent-1.

On an inquiry held by the Collector in respect of the said claim statements, as required by Section 11 of the LA Act, he found the exact extent of the acquired land to be 8 bighas, 9 Cottahs and 4 Chittacks and determined the compensation payable therefor as Rs. 6,33,164 worked out at the rate of Rs.3,741 per Cottah, and apportioned that compensation between respondent-1 and respondent-2 respectively, as Rs. 4,95,316.43 paise and as Rs. 1,37,947.92 paise. An award dated February 5, 1981 was also made by him accordingly.

Respondents-1 and 2 who were not satisfied with the compensation awarded to them under the said award of the Collector on their applications made under Section 18 of the LA Act, got their applications referred to the Calcutta Improvement Tribunal "Tribunal", for determination of the just compensation payable for their acquired lands. Those applications being registered by the Tribunal as case No. 23/81, or inquiry was held thereon after issue of notices to the Collector, respondents-1 and 2 put not to appellant-1 for the benefit of which the land concerned was acquired and which had to pay the amount of compensation payable for the land under the LA Act. On the conclusion of such inquiry the Tribunal made a common award dated May 21, 1986, the operative portion of which read thus :

> "That the reference succeed in part with costs, The award for value of land is enhanced to Rs. 7,11,865.505, the increased amount in this regard being Rs. 78,701.25 p. The referring claimant shall get the sum of Rs. 15,000 as value of the retraining wall. The enhanced value of land, the said value of the retaining wall shall carry interest @ 9% for one year from the date of possession and after that @ 15% till the amounts are remitted to this Tribunal."

Respondent-1 and 2 who are not also satisfied with the enhanced compensation given by the Tribunal in the said common award, filed

A therefrom two separate appeals, F.A. No. 448/88 and F.A. No. 449/88 before the Calcutta High Court. Those appeals being heard by a Division Bench of the High Court, by its common judgment and separate decrees dated January 24, 1991, it enhanced compensation payable for the acquired land from Rs.4,206 per Cottah awarded by the Tribunal as against Rs.3,741 B awarded by the Collector to Rs. 7,500 per Cottah. By the same Judgment and decrees it also awarded high solatium and interest or compensation as allowed by the provisions of the Land Acquisition Amendment Act of 1984.

Although appellant-1 was not a party to the proceedings in the References before the Tribunal and in the Appeals before the High Court, C it having felt aggrieved against the enhancement of compensation for the acquired land granted by the High Court in its common judgment and separate decrees, filed special leave petitions in respect of the said judgment and decrees, with the leave of this Court. The present appeals have arisen cut of those Special Leave Petitions by reason of grant of special D leave under Article 136 of the Constitution.

When we found from the common judgment of the High Court impugned in the appeals that the High Court has committed a manifest error in determining the market value of the acquired land by adoption of the method of belting, placing reliance on price fetched in sale transaction E pertaining to a small plot of land said to have been situated in the vicinity of the acquired land ignoring the undisputed price of the very acquired land fixed under the transaction of an agreement to entered into between claimants ---- respondent-1, the seller and respondent-2, the intending purchaser we were of the view, that we should ourselves, determine the F market value of the acquired land on the basis of evidence on record and after hearing learned counsel for parties, so as to avoid further delay likely to occur in fresh disposal of the case by the High Court in the event of our remittance of the case for its disposal. We are, accordingly, proceeding to determine the amount of compensation payable for the acquired land.

G No doubt, for determining the market value of land acquired under the LA Act. Method of Belting could be adopted, where such land is in an urban locality and it could, by the mere laying of roads, be readily turned into building plots and utilised as such and where prices fetched by comparable sales of similar building plots in the vicinity of the acquired H land at about the time of acquisition are available. But, where the land

acquired under the LA Act cannot be turned into building plots for utilisation unless a regular layout of building plots on such land is made by the laying of road, drains and after providing the amenities for user of such plots for the construction of buildings, conforming to regulations governing formation of such building layouts, it would be inappropriate to determine the market value of such land by resorting the method of Belting by which higher value could be fixed the building plots fronting the available public roads. In any event, adoption of the method of Belting or the method of hypothetical Building Layout or the method of Comparable Sales in the vicinity, would be inapposite for determining the market value of a vast area of land acquired under the LA Act, if such land is situated in an urban locality, and its determination of such market value is possible on the basis of earlier sale/s or agreement/s to sell pertaining to the entire area of the very acquired land or portions of it, which will not have taken place in the remote past and are found to be genuine and *bonafide*.

Therefore, if we conclude that the agreement to sell dated September 3, 1975 (Ex.P-1) executed by respondent-1, the owner of the entire land acquired under the LA Act with the determination of the market value of which we are concerned, in favour of respondent-2, the intending purchaser of that land in its existing condition, is a genuine and *bonafide* transaction which has not taken place in remote past and that transaction could form the basis for determination of the market value of the acquired land, we would be constrained to hold that the Tribunal and the High Court had committed a manifest error by adoption of the method of Belting for the purpose of determination of the market value of the acquired land and the market value of such acquired land fixed by adoption of the method of Belting requires interference.

The agreement to sell, pertaining to the very acquired land, executed by respondent-1, the owner of the acquired land in favour of respondent-2, the intending buyer of the land, is relied upon by both of them as a *bonafide* and genuine transaction entered into by them, as is seen from their claim statement made before the Collector to support each other's claims made therein. Since the contents of that agreement to sell entered into between respondent-1 and respondent-2 which is marked in evidence under consideration in the present appeal as Ex. P-1, could reflect its genuine and *bonafide* nature, it would be advantageous to advert to them by reproducing the very agreement to sell, insofar as, it is material :

A "AGREEMENT

THIS AGREEMENT made this the 3rd day of September One thousand nine hundred seventy five BETWEEN DOMINION LAND AND INDUSTRIES LTD., (Respondent- 1) ..... of the ONE PART AND KALIDAS CHAKRABORTY, (respon-
B dent-2)..... of the OTHER PART.

WHEREAS the first party is the owner in possession of the property mentioned in the Schedule to this Agreement.

C AND WHEREAS .....

AND WHEREAS it would be very difficult and bothersome for the first party to bear the trouble and expenses for clearing the squatters from schedule property and to get it free from encumbrances.

D

AND WHEREAS no development of the said property is possible without clearing the squatters from it.

AND WHEREAS the Second party has offered to the First party to develop the schedule property after clearing and removing
E the squatters therefrom and getting the same free from all encumbrances, all at its own costs, expenses and labour and prepare a scheme for disposal of the land.

AND WHEREAS the said offer of the Second party has been accepted by the First party.

F

Now pursuant to the talks and consensus the parties hereto have come to the following terms and conditions which will bind the parties, their heirs and respective successors-in-interest and legal representatives :

G

1. The property covered by this agreement comprises about 8 Bighas. 5 kt. 14 ch, more or less land-both high and marshy. About half of the land is low and being used as tank fishery. The second party shall be at liberty to fill up the low and marshy land according to its scheme. Provided, however, the
H First Party shall not part with possession of the property

except and in so far as the contracted property or part thereof for which full consideration would be paid and/or conveyance would be duly executed and registered.

2. In view of the special circumstances and of the fact that squatters are occupying a considerable portion of the scheduled property as referred to above, the net consideration for the property as a whole that is in lump sum is fixed at Rs. 4,80,000 (Rupees four lacs eight thousand that is about 3,000 (Rupees three thousand) only per cottah average more or less. This agreement, however shall hold good for 7 (seven) years and 6(six) months whereafter it shall ipso facto stand dissolved or discharged.

3. The first party shall be entitled to bring in any purchaser to purchase small parcels of development plot provided the cost of development are paid to the second party, for which the second party shall be obliged to issue proper receipt of discharge and the second party shall be paid Rs. 1,000 (Rupees one thousand) per Cottah over and above the consideration paid to the First Party, on proper receipt, for the release of the right of specific performance.

4. The second party had paid to the first party a sum of Rs. 5001 (Rupees five thousand and one) only as earnest money which shall be adjusted with the consideration in due course.

5. .....

6. If during the subsistence of this Agreement the scheduled property or any portion thereof be acquired by the State Government or any other statutory body or bodies under Land Acquisition Act I of 1894 or any other Act or Acts during the subsistence of this Agreement, the First Party shall be entitled to the entire amount of compensation including solatium if it does not exceed Rs. 4,80,000 (Rupees four lakh eight thousand). But if such compensation money exceeds Rs. 4,80,000 then the First Party shall get only 4,80,000 and 10% of the excess amount. In case of such excess, the entire remaining 90% of the compensation money in excess of the

aforesaid sum of Rs. 4,80,000 shall be payable to and recoverable by the Second party and the First Party or any person or persons claiming under it, save and except the purchasers of any portion of the Schedule property with consent of the second party shall neither claim nor shall be entitled to get any amount out of this 90% of the compensation money including solatium in excess of Rs. 4,80,000.

7. Notwithstanding the time the second party shall forthwith be entitled to evict and/or to remove the squatters from the scheduled party through court of law or otherwise and to get possession of the property agreed to be sold and to get the conveyance of any portion or the whole of the scheduled property at any time on payment of the scheduled property, at any time on payment of the consideration commensurate with the extent of the property in lump sum. It is, however, a condition or the bargain that if high land is sold first, the second party shall give proper indemnity that the low land shall fetch proper consideration to cover up the balance of the consideration as per the rate including the enhancement.

8. .....

9 .....

10. The second party shall be obliged to pay the first party all or sales the agreed amount including the enhanced amount as per terms be not available.

11. Either party shall have the right to specifically enforce the contract.

12. All amounts in excess of the agreed amount, after sale or sales shall be receivable by or be appropriated to the property of the second party.

SCHEDULE OF THE PROPERTY

Particulars of measurement of land at 42 Bediadanga 2nd Lane comprising of portions of Dag. Nos. 1247, 1249 and 1250 and entire Dag No. 1243, all of Mouza Bondel Khatain No. 206 Tousi DB-1

portions of Dag Nos. 1304 and 1308 of Mouza Kasba Khatain No. 1577 Tousi OB-1 within P.S. Jadavpur.

Marshy Land	:	96 Cottaha 10 chittacks 31 square feet
High Land	:	69 Cottaha 3 chittacks 21 square feet
Total		8 B. 5 Kt. 14 cn. 7 sft.

In witness whereof the parties put their signature the day, month, year first above written.

When the above agreement to sell entered into between respondent-1 and respondent-2 seen it says that the land agreed to be sold thereunder did not merely comprise of high land, but also low lying marshy land which required filling up at considerable expense to make it fit as a building land. It also refers to extents of two types of land which show that marshy low lying land accounted for about 60 per cent of the total land while high land accounted for just about 40 per cent of such total land. It also refers to some portions of the high land having been occupied by squatters and considerable expense needed to get rid of the squatters by evicting them though Court proceedings or otherwise. The agreement entered into on September 3, 1975, as seen therefrom, had to hold goods for 7 year and 6 months, i.e,, almost upto the 3rd march, 1983, obviously for the reason that the parties themselves did not anticipate the land covered by the agreement to sell, could be made ready for sale as building land before 4 or 5 years. The mention of the possibility of acquisition of that land in the agreement indicates that the parties had not ruled out such acquisition during the period of existence of the agreement. The mention in the agreement that in the event of acquisition, the compensation to be paid does not exceed the amount for which the land had agreed to be sold, the entire amount of compensation was to be received by the owner of the land, respondent-1, shows that the parties did not see the likelihood of getting compensation in excess of the agreed amount if the marshy land was not duly filled properly and the unauthorised squatters were not evicted from the high

A land to make the entire land available for sale as building land.

The contents of the said agreement to sell, when are thus seen, they sufficiently reflect on its genuineness and *bonafides*. Further, condition 3 in that agreement to sell that respondent-1 shall be entitled to get purchasers for sale of parcels of land after development of the land for building use and if respondent-2 were to receive higher amount than Rs. 4,000 per cottah (Rs. 1,000 per Cottah as against Rs.3,00 per Cottah for which the land was agreed to be sold) was enough to indicate that the market value of the land payable to its seller during the period of 7 1/2 years up to the 3rd of March, 1983 was to be Rs.4,000 per cottah and not more. Therefore, the market value in the condition in which it was between September 3, 1975 and 3rd March, 1983 was regarded by the very parties to the agreement to sell as Rs. 4,000 per cottah unless the squatters were evicted from the high land through court or otherwise and the low lying marshy land was filled with outside earth making it fit to be sold as building sites along with the high level land. The said term relating to the amount payable to respondent-1 as value of the land during the period of September 3, 1975 to March 3, 1983 found in the agreement to sell, is in our view, a clear reflection that the parties were not interested inflating the value of the land anticipating acquisition of the land during that time.

Thus, we have every reason to think that the said agreement to sell (Ex.P1) was a genuine and *bonafide* transaction relating to the very acquired land entered into between the parties respondents-1 and 2 concerned *bonafide*, and it reflected the real market value of the land as a whole between September 2, 1975 and March 3, 1983.

Because of the availability of the said genuine and *bonafide* agreement to sell pertaining to the very land acquired under the LA Act which reflected the real market value of the acquired land at about the time of acquisition, i.e., November 2, 1978, there was no scope for determining the market value of the said acquired land by resorting to the method of Belting or hypothetical building layout or method of Comparable sales in the vicinity of the acquired land or the like. Hence, in our view, the Tribunal as well as the High Court had committed a manifest error in adopting the method of Belting for determining the market value of the aforesaid land acquired under the LA Act, with the market value of which we are concerned here.

The question which, therefore, arises for our consideration is, as to what could be regarded as just and reasonable market value of the acquired land as on the date of the preliminary Notification, i.e., November 2, 1978, if the same is determined conforming to the first clause of sub-section (1) of Section 23 of the LA Act.

As seen from the claim statement filed by respondent-1 on May 21, 1991 in response to notice issued to it under Sections 9 and 10 of the LA Act, all that has been done in respect of the land acquired by respondent-2 after coming into existence of the agreement to sell dated September 3, 1975, is the following :

> "9. That since after execution of the said Deed of Agreement dated 3.9.1975 the entire acquired properties is mentioned in Schedule 'A' below have been totally freed from the trespassers and acquittors by Sri Kalidas Chakravarty at his cost and endeavour and the same has been lying absolutely vacant, free from all encumbrances whatsoever and has been in khas possession of Sri Kalidas Chakravarty since long time before the material date of this acquisition proceedings."

No reference is made in the said statement to the actual costs said to have been incurred by Sri Kalidas Chakaraborty (respondent-2) in getting bid of the squatters from the acquired land. Nowhere, there is any mention as to filling of the 60 per cent of the low lying marshy land with earth, as was contemplated in the agreement to sell. When it comes to the claim statement made by respondent-2 pursuant to notices issued to respondent-1 under sections 9 and 10 of the LA Act, there is also no mention of filling up the 60 per cent of low lying marshy land with any outside earth by him. As to cost of labour and expenditure said to have been incurred by him, in getting rid of squatters on the land, this is what has been stated in paragraph 8 thereof.

> "8. That your petitioner has at the cost of enormous labour and expenditure got the entire acquired property freed from all trespassers and had made it absolutely within a year from the date of agreement i.e. long before the material date."

But no details are furnished by him as regards the expenditure incurred in freeing the lands from squatters, either by having recourse to the court

proceedings or otherwise. Then, when we see the evidence of Sudhir Dutta, witness No. 1 for the claimant and Director of respondent-1 company, he does nowhere refer to the eviction of squatters from the acquired land and the expenses, if any, incurred by respondent-2 for the purpose. There is no other evidence adduced or behalf of respondents (claimants) which would indicate as to what kind of proceedings were taken to evict the squatters from the acquired land and what is the real expenditure incurred-by respondent-2 in respect of such eviction of squatters, if any.

Thus, in the absence of any evidence as to the expenditure incurred by respondent-2 in developing the land covered under the agreement to sell and freely it from squatters, the intrinsic evidence that becomes available in that agreement to sell (Ex-p- 1) as a what could be the market value of the acquired land as on date of preliminary Notification proposing acquisition of that land under the LA act, has to be seen, as pointed put by us earlier with reference to the contract of the agreement to sell (Ex.P-1). The market value of the acquired land reasonably expected to be got by its owner, respondent-1, at about the time of the acquisition of the land after lapse of about three years, was not more than Rs. 4,000 per cottah. The Collector, taking into consideration the market value of the acquired land as fixed by parties in the agreement to sell, has made his award under Section 11 of the LA Act at Rs. 3,741 per cottah. When, admittedly, the basis for determination of the market value of the acquired land under the award made under Section 11 of the LA Act by the Collector, was the agreement to sell, we feel that it would be just and reasonable to fix the market value of the acquired land around Rs. 4,000 per cottah. The Reference Court, on consideration of certain sale deeds, said to have been executed by the Chairman of the Tribunal himself respecting certain small extents of land in the vicinity of the acquired land, has determined the market value of the land at Rs. 204 per cottah, i.e., Rs. 206 per cottah in excess of what was agreed to between the parties, as the market value of the acquired land between September 3, 1975 and March 3, 1983. This excess amount, we feel, being marginal, could be attributed even to the expenditure incurred by respondent-2 in getting rid of the squatters on the acquired land, assuming it was done. As such, the market value of the acquired land, in any case, including the time gap that has acquired between the date of agreement to sell and the date of the Notification under Section 4(1) of the LA Act was issued proposing its acquisition, cannot be more than Rs. 4,206 per cottah, even if determined leading on

the side of the claimants-respondents in the matter of awarding compensation to them for the acquired land. We determine the amount of compensation payable for the acquired land accordingly. Amount of compensation for the boundary wall on the acquired land fixed by the Tribunal at Rs. 15,000 shall stand undisturbed. A

In the result, we allow these appeals, set aside the judgment and decree made by the High Court, restore the award and decree made by the Tribunal by upholding the determination of the market value of a 6 Bighas, 9 Cottah and 4 Chittacks of acquired land at Rs. 4,206 per Cottah and granting of Rs. 15,000 for boundary wall and modify the same granting solatium at 30 per cent for the total amount of the market value of the acquired land and interest on the enhanced compensation from the date of taking possession of the acquired land to the date of payment of such compensation at the rate of 9 per cent per annum during the first year and during subsequent years at the rate of 15% per annum. However, if the respondents in these appeals have received any amount in excess of the said amounts awarded to them under this judgment they are liable to refund the same with interest thereon at the rate of 12 per cent per annum from the date of such receipt till the date of its repayment to appellant-1. B C D

In the facts and circumstances of this case, the parties are directed to bear their own costs throughout. E

R.P. Appeals allowed.