

REVENUE DIVISIONAL OFFICER-CUM-L.A.O.

v.

SHAIK AZAM SAHEB ETC. ETC.

(Civil Appeal Nos. 8984-8985 of 2003)

JANUARY 13, 2009

**[S.B. SINHA, LOKESHWAR SINGH PANTA AND  
B. SUDERSHAN REDDY, JJ.]**

*Land Acquisition Act, 1894:*

*Compensation for land acquired – Computation of – Agricultural lands abutting National High way and nearby, situated about 4 km. away from District Headquarters and surrounded by educational institutions – Factors relevant for determination of market value – Explained – Market value determined accordingly – One-third deduction allowed towards development costs – 10% escalation per year added.*

**Agricultural lands of the respondents-claimants abutting National Highway situate in village 'P' and nearby village 'BT', both being about 4 km. away from the District Head Quarters and surrounded by educational institutions including one Engineering College, were acquired pursuant to a Notification u/s.4(1) of the Land Acquisition Act, 1894 published on 5.5.1994 for the purpose of establishing Shri Krishna Devraya University. The Collector awarded compensation at the rate of Rs.16,000/- for the lands in Village 'P' and Rs.15,000/- for those in village 'BT'. The reference court enhanced the compensation to Rs.1,00,000/- per acre and Rs.90,000/- per acre respectively, and the High Court further enhanced it to Rs.1,90,000/- uniformly for the lands situate in both the villages. Aggrieved, the Revenue Divisional Officer-cum-LAO filed the appeals.**

**A** Allowing the appeals in part, the Court

**B** HELD: 1.1. Determination of market value of a land  
acquired in terms of the provisions of the Land  
Acquisition Act, 1894 depends upon a large number of  
positive and negative factors, namely, whether the land  
acquired is agricultural land or homestead land; in the  
event the land being agricultural one, whether irrigated  
or non-irrigated, extent of facilities available for irrigation,  
location of the land, closeness thereof from any road or  
highway, the evenness of land, its position in different  
seasons particularly in rainy season, existence of any  
building or structure as also the development in and  
around the area, sale exemplars and in their absence  
whether claim can be determined on yield basis. [Para 11  
and 12] [296-E-G; 297-A-B]

**D** *Viluben Jhalejar Contractor v. State of Gujarat (2005) 4  
SCC 789, relied on.*

**E** 1.2. The acquired lands abut on National Highway No.  
18, they are situated about 4 kilometers away from the  
District Headquarter and have been held to have the  
requisite potential value as building site as also for  
constructing industrial complexes. The reference court  
noticed that there are educational institutions  
surrounding the acquired lands including an Engineering  
College. As on the date of acquisition, it was found that  
the vicinity surrounding the land was well developed.  
[Para 14] [298-B-D]

**G** 1.3. Indisputably, a big chunk of lands, namely, 87  
Acres 96 cents were acquired for the purpose of  
establishing an institution known as Sri Krishna  
Devaraya University. The award of the Land Acquisition  
Collector was accepted by most of the persons. Only the  
respondents objected thereto. The lands are situated in  
two different villages. The plan showing the location of

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the land *vis-a-vis* the National Highway No. 18 was not placed before the Court. From the award of the reference court, it appears that the lands situated in village 'P' are better placed than the lands situated in village 'BT'. Such a distinction was also kept in mind by the Land Acquisition Collector. The market value of the land would also depend upon the situation thereof. [Paras 15, 16 and 17] [298-E-H; 299-A]

1.4. Indisputably while comparing the market value of developed lands with that of undeveloped lands, the court has to make suitable deductions towards the cost of development. [Para 19] [299-D]

*P.S. Krishna and Co. Pvt. Ltd. v. The Land Acquisition Officer, (Deputy Collector) Hyderabad (1991) 2 SCALE 1186; Mummidi Apparao v. Nagarjuna Fertilizers and Chemicals Ltd. (2008) 16 SCALE 226 and Viluben Jhalejar Contractor (D) v. State of Gujarat (2005) 4 SCC 789, referred to.*

1.5. In the facts and circumstances of the case, one-third deduction should be made towards development costs for the lands situated both in village 'P' as also village 'BT'. Keeping in view the fact that the lands are abutting National Highway and are near the district town, where a large number of educational institutions have come up, 10 % escalation per year has to be added. Thus, Rs. 1,41,666.66 per acre may be fixed for the lands in village 'P'. The lands in another village 'BT' being situated away from the NH 18, 10% from the amount fixed for the lands in village 'P' must be deducted. Thus, Rs. 1,27,499.99 per acre may be fixed for the lands in village 'BT'. The Court has adopted the same method as was adopted by the reference court which fixed market value for the lands situated in village 'P' at Rs. 1,00,000/- per acre and Rs.90,000/- per acre in respect of village 'BT'. [Para 20] [300-D-G]

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**A Case Law Reference:**

(2005) 4 SCC 789 relied on Para 13

(1991) 2 SCALE 1186 referred to Para 19

**B (2008) 16 SCALE 226 referred to Para 19**

(2005) 4 SCC 789 referred to Para 19

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 8984-8985 of 2003.

**C** From the final Judgment dated 28.3.2003 of the High Court of Judicature, Andhra Pradesh at Hyderabad in A.S. Nos. 2175, 2177, 2191 of 2001 with cross-objections (SR) Nos. 21434, 21100 and 21101 of 2003 respectively.

WITH

**D** C.A. No. 8733-8736/2003, C.A.No. 8987-9001/2003, 108-115, 116-121, 122-129 and 130 of 2009.

R. Sundarvardhan, Manoj Saxena, Rajneesh Kumar Singh, Rahul Shukla and T.V. George, for the Appellant.

**E** K. Amareswari, P. Venkat Reddy and Anil Kumar Tandale, for the Respondents.

The Judgment of the Court was delivered by

**F** **S.B. SINHA, J.** 1. Leave granted in Special Leave Petition (Civil) Nos. 4463-4470 of 2004, 12200-12205 of 2007, 12215 of 2007 and 12206-12213 of 2007.

2. These appeals by special leave involving common questions of law and fact were taken up for hearing together and are being disposed of by this common judgment.

**G** 3. The basic fact of the matter is not in dispute.

**H** A notification under Section 4(1) of the Land Acquisition Act, 1894 was issued (hereinafter referred to for the sake of brevity as, "the said Act") expressing the intention of the State to acquire land to the extent of 87 Acres 96 cents situated in Pasupula and B. Thandrapadu villages for the purpose of

establishing a Post Graduation Centre of Sri Krishna Devaraya University. A

4. Out of the said 87 Acres 96 cents of land, we are concerned only with 25 acres of land of which respondents were owners. The Land Acquisition Officer made an award on or about 20.12.1995 fixing the market value of the lands at the rate of Rs.15,000/- per acre for the lands situated in B. Thandrapadu village and Rs.16,000/- per acre for the lands situated in Pasupula village. B

5. Dissatisfied with the quantum of compensation awarded by the Land Acquisition Officer, the respondents sought for reference from the Collector before the Civil Court in terms of Section 18 of the said Act. C

The learned Principal Senior Civil Judge, Kurnool by a judgment and award dated 28.03.2001 enhanced the market value thereof from Rs.15,000/- to Rs.90,000/- per acre for the lands situated in B. Thandrapadu village and from Rs.16,000/- to Rs.1,00,000/- per acre for the lands situated in Pasupula village. Appeals and cross-objections were filed thereagainst by the parties hereto. D E

6. By reason of judgments and orders dated 18.3.2002 and 28.3.2003, a Division Bench of the Andhra Pradesh High Court enhanced the market value of the land to Rs.1,90,000/- per acre uniformly for the lands situated in both the villages. F

7. Parties thereto are, thus, before us.

8. The High Court in support of its judgment, *inter alia*, relied upon a registered deed of sale dated 12.11.1987, which was marked as Exhibit B-3 whereby and whereunder four cents of land was sold for a sum of Rs.10,000/-. On that premise, it was contended that the value of the land per acre would be Rs.2,50,000/-. The High Court furthermore relied on its earlier judgment and order passed in A.S. No. 1095 of 1996 (Exhibit B-6) wherein market value of the lands acquired therein was G H

A fixed at the rate of Rs.2,70,000/- per acre.

B In respect of the land covered by Exhibit B-6, a notification under Section 4(1) of the Act was issued on 30.06.1992 for the purpose of establishing Bharat Gas Power Station. It was noticed that the lands which were acquired for the said Bharat Gas Power Station being situated at a distance of about 8 kilometers from Kurnool Town whereas the acquired lands were situated about 4-5 kilometers away from Kurnool Town.

C It was stated:

D "As can be seen from Ex.B6, this court has fixed the rate of compensation at Rs.2,70,000/- and the notification was issued in June 1992 whereas in the present cases notification was issued in May 1995. In such an event, if escalation is given at 10% on the value fixed by this Court, it would be around Rs.3,24,000/- per acre. Let us test the value from the other angle. Ex. B3 is a small extent of 4 cents and the purchase took place in the year 1997. The reference court correctly observed that as the purchase was made about 7 years earlier to the notification, the purchase was not made with a view to have an undue advantage of higher compensation. As per Ex. B3 the value per acre is Rs.4,00,000/- if 10% escalation is given for 7 years, the same comes to Rs.6,80,000/- and even if we take 60% of the amount by keeping in view the small extent sold under Ex.B3 and also giving discount for developmental activities, it would be Rs.2,72,000/- per acre. Therefore, we follow the safest method for arriving at the compensation with reference to Ex.B6 which is in an extent of 27 and the area covered by the batch of appeals is also almost same, and the notification was issued for 87.96 cents, granting of escalation by deduction 40% of the amount and fixing the compensation at Rs.1,90,000/- would be just and reasonable. Therefore, we have taken the course of resorting to 40% of the amount as the land acquired was for the University Buildings,

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wherein internal roads have to be laid and other open spaces have to be left out. Thus, keeping in view the above facts, we feel that granting compensation at Rs.1,90,000/- is just and reasonable." A

9. Mr. R. Sundarvardhan, learned Senior Counsel appearing on behalf of appellant would contend: B

i. As this Court in Civil Appeal No. 5206-5228 of 1997 (*A.P. Industrial Infrastructure Corporation Limited v. G. Mohan Reddy & Ors.*) interfered with the judgment and order passed in A.S. No. 1095 of 1996 and batch to hold that the market value of the land in question should be fixed at Rs.1,35,000/-, Rs.90,000/- and Rs.70,000/- per acre for different survey nos. on the premise that the situation of the land keeping in view their distance from the National Highway play a vital role as the land which is near the Highway would definitely get a higher price than the land which is away therefrom, the impugned judgment cannot be sustained. C D

ii. Exhibit B-3 being the registered sale deed dated 12.11.1987 could not have been relied upon as only 4 cents of land was the subject matter of transfer in terms thereof whereas the notification had been issued for acquisition of land measuring 87 Acres 96 cents. E F

10. Mrs. K. Amareswari, learned Senior Counsel appearing on behalf of the respondents, on the other hand, would contend:

i. It is not correct to contend that an exemplar in terms whereof only a small portion of land had been transferred can never be taken into consideration. G

ii. Keeping in view the fact that the market rate in terms of Exhibit B-3 would come to Rs.2,50,000/- per acre, even if 50 per cent is deducted therefrom, H

A the market value may be determined at  
Rs.1,25,000/- to which increase therein at the rate  
of 10 per cent per year should be added and as  
the lands in question were acquired on 5.5.1994,  
that is, 7 years after the said deed of sale was  
B executed, the market value thereof would come to  
Rs.2,12,500/- per acre.

iii. So far as the judgment of this Court passed in Civil  
Appeal No. 5206-5228 of 1997 (*A.P. Industrial  
C Infrastructure Corporation Limited v. G. Mohan  
Reddy & ors.*) is concerned, the notification therein  
having been issued on or about 30.6.1992 whereas  
the notification in the instant case having been  
published on 5.5.1994, no reliance can be placed  
D thereupon as admittedly the lands were situated 8  
kilometers away from the National Highway  
whereas the lands in question are situated only 4  
kilometers away from the Highway.

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

12. The mode and manner in which determination of such  
valuation are to be carried out would also depend upon the  
H facts and circumstances of each case, namely, whether any

deed of sale executed in respect of similarly situated land near about the date of issuance of notification under Section 4(1) of the Act is available, or in absence of any such exemplars whether the claim can be determined on yield basis or in case of an orchard on the basis of the number of fruit bearing trees and the yield therefrom.

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13. *One other important factor which also should be borne in mind is that it may not be safe to rely only on an award involving a neighbouring area irrespective of the nature and quality of the land. For determination of market value again, the positive and negative factors germane therefor should be taken into consideration, as laid down by this Court in Viluben Jhalejar Contractor v. State of Gujarat [(2005) 4 SCC 789], namely:*

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Positive factors	Negative factors
(i) Smallness of size	(i) Largeness of area
(ii) proximity to a road	(ii) situation in the interior at a distance from the road
(iii) frontage on a road	(iii) narrow strip of land with very small frontage compared to depth
(iv) Nearness to developed	(iv) lower level requiring the area depressed portion to be filled up
(v) regular shape	(v) Remoteness from developed locality
(vi) Level <i>vis-à-vis</i> land under acquisition	(vi) Some special disadvantageous factors which would deter a purchaser

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A (vii) Special value for an owner of an adjoining property to whom it may have some very special advantage.

B 14. Before determination of the market value of the land, we may notice that the town of Kurnool is the District Headquarter of Kurnool district. The acquired lands are situated about 4 kilometers away from the said town abutting National Highway No. 18. The lands in question have been held to have the requisite potential value as building site as also  
C for constructing industrial complexes. The learned Reference Judge noticed that there are educational institutions like Pulla Reddy Engineering College, Don Bosco School, St. Mary's Residential School etc. surrounding the acquired lands. G. Pulla Reddy Engineering Cclege is said to be situated just on the  
D other side of the road of the lands acquired. As on the date of acquisition, it was found that the vicinity surrounding the land was well developed.

E 15. Indisputably, a big chunk of lands, namely, 87 Acres 96 cents were acquired for the purpose of establishing an institution known as Sri Krishna Devaraya University. The award of the Land Acquisition Collector was accepted by most of the persons. Only the respondents before us objected thereto.

F 16. The lands are situated in two different villages. The plan showing the location of the land *vis-à-vis* the National Highway No. 18 had not been placed before us. From the award of the learned Reference Judge, it appears that the lands situated in Pasupula village are better placed than the lands situated in  
G B. Thandrapadu village. Such a distinction had also been kept in mind not only by the Land Acquisition Collector but also by the Reference Court.

H 17. We agree with the judgment of this Court in Civil Appeal No. 5206-5228 of 1997 (*A.P. Industrial Infrastructure*

*Corporation Limited v. G. Mohan Reddy & ors.*) that the market value of the land would also depend upon the situation thereof. A

18. Applying the said formula, if we rely on Exhibit B-3, the market value of the land in question would come to about Rs.1,25,000/- per acre. It is, however, not possible to agree with the submissions of Mrs. Amareswari that we should determine the market value only on that basis upon addition of 10 per cent enhancement of the market value each year. It must be bear in mind that the lands in question were agricultural lands whereas the lands which were the subject matter of the said deed of sale was a homestead land, thus, some amount, therefore, will have to deducted towards the development cost. B C

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

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

In *P.S. Krishna and Co. Pvt. Ltd. v. The Land Acquisition Officer, (Deputy Collector) Hyderabad* [(1991) 2 SCALE 1186], this Court refused to interfere with the judgment of the High Court which had given a deduction of 20% towards development charges. Recently, a Division Bench of this Court in *Mummidi Apparao v. Nagarjuna Fertilizers and Chemicals Ltd.* [2008 (16) SCALE 226] did not interfere with the decision of the High Court which had given a direction for deduction of 50% as development charges. However, we are not oblivious of the fact that this Court had observed in *Viluben Jhalejar Contractor (D) v. State of Gujarat* [(2005) 4 SCC 789]: E F G

"28. In *Hasanali Khanbhai & Sons v. State of Gujarat* [(1995) 5 SCC 422] and *Land Acquisition Officer v. Nookala Rajamallu* (2003) 12 SCC 334: (2003) 10 SCALE 307 it has been noticed that where lands are H

A acquired for specific purposes deduction by way of development charges is permissible.

B 29. We are not, however, oblivious of the fact that normally one-third deduction of further amount of compensation has been directed in some cases. (See *Kasturi v. State of Haryana* [(2003) 1 SCC 354], *Tejumaal Bhojwani v. State of U.P.*, [(2003) 10 SCC 525], *V. Hanumantha Reddy v. Land Acquisition Officer & Mandal R. Officer* (2003) 12 SCC 642, *H.P. Housing Board v. Bharat S. Negi* (2004) 2 SCC 184 and *Kiran Tandon v. Allahabad Development Authority and Anr.* (2004) 10 SCC 745)."

D 20. In the facts and circumstances of the present case, one-third deduction, in our opinion, should be made towards development costs for the lands situated both in Pasupala village as also B. Thandrapadu village. Keeping in view the fact that the lands are abutting National Highway and near the district town, where a large number of educational institutions have come up, 10 per cent escalation per year has to be added. Thus, Rs. 1,41,666.66 per acre may be fixed for the lands in E Pasupala village.

F The lands in another village B. Thandrapadu Village being situated away from the NH 18, another 10 per cent from the amount fixed for the lands in Pasupala village must be deducted. Thus, Rs. 1,27,499.99 per acre may be fixed for the lands in B. Thandrapadu village.

G We have adopted the same method which had been adopted by the Reference Judge inasmuch as the Reference Judge had fixed market value for the lands situated in Pasupala village at Rs. 1,00,000/- per acre and Rs.90, 000/- per acre in respect of B. Thandrapadu village.

21. The appeals are allowed to the aforementioned extent. No costs.

H R.P.

Appeal partly allowed.