

**IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH**

DATED THIS THE 7th DAY OF JULY , 2014

B E F O R E

THE HON' BLE MR. JUSTICE A.S.BOPANNA

AND

THE HON' BLE MR. JUSTICE B.SREENIVASE GOWDA

Misc.First Appeal No.25301 OF 2012(LAC)

C/W

Misc.First Appeal Nos.25302/2012, 25303/2012

&

25304/2012(LAC)

In MFA No.25301/2012(LAC):

BETWEEN:

1. Vithal Rao
S/o.Madhav Rao Bhakshi
Age: 82 years, Occ: Agriculture
R/o.Mudhol, Tq: Mudhol
Dist: Bagalkot.

2. Milind
S/o.Vithal Rao Bhakshi
Age: 52 years, Occ: Agriculture
R/o.Mudhol
Tq: Mudhol, Dist: Bagalkot.
... Appellants

(By Sri Jayakumar S.Patil, Sr.Counsel for
Sri Jagadish Patil, Adv.)

AND:

The Special Land Acquisition Officer
 Upper Kirshna Project
 Bilagi, Tq: Bilagi, Dist: Bagalkot.

...Respondent

(By Sri. C.S.Patil, GA)

This MFA is filed under Section 54(1) of the LA Act against the Judgment and Award dated 24.8.2012 passed in LAC No.107/2004 on the file of Senior Civil Judge at Mudhol, partly allowing the reference petition for compensation and seeking enhancement of compensation.

In MFA No.25302/2012(LAC):**BETWEEN:**

Vithal Rao
 S/o.Madhav Rao Bhakshi
 Age: 82 years, Occ: Agriculture
 R/o.Mudhol, Tq: Mudhol
 Dist: Bagalkot.

... Appellant

(By Sri Jayakumar S.Patil, Sr.Counsel for
 Sri Jagadish Patil, Adv.)

AND:

The Special Land Acquisition Officer
 Upper Kirshna Project
 Bilagi, Tq: Bilagi, Dist: Bagalkot.

... Respondent

(By Sri. C.S.Patil, GA)

This MFA is filed under Section 54(1) of the LA Act against the Judgment and Award dated 24.8.2012 passed in LAC No.106/2004 on the file of Senior Civil Judge at Mudhol, partly allowing the reference petition for compensation and seeking enhancement of compensation.

In MFA No.25303/2012(LAC):**BETWEEN:**

1. Yashvant
S/o.Krishna Bakshi

Dead by his LRs:

- (a) Madhav
S/o.Bhagavant Rao Bakshi
Age: 56 years, Occ: Agriculture
R/o.Mudhol, Tq: Mudhol,
Dist: Bagalkot.
- (b) Balachandra R.Bakshi
Age: 53 years, Occ: Agriculture
R/o.Mudhol, Tq: Mudhol,
Dist: Bagalkot.
- (c) Milind
S/o.Vittal Rao Bhakshi
Age: 52 years, Occ: Agriculture
R/o.Mudhol
Tq: Mudhol, Dist: Bagalkot.Appellants

(By Sri. Jayakumar S.Patil, Sr.Counsel for
Sri. Jagadish Patil, Adv.)

AND:

The Special Land Acquisition Officer
Upper Kirshna Project
Bilagi, Tq: Bilagi, Dist: Bagalkot.Respondent

(By Sri. C.S.Patil, GA)

This MFA is filed under Section 54(1) of the LA Act against the Judgment and Award dated 24.8.2012 passed in LAC No.108/2004 on the file of Senior Civil Judge at Mudhol, partly allowing the reference petition for compensation and seeking enhancement of compensation.

In MFA No.25304/2012(LAC):**BETWEEN:**

1. Annappa
S/o.Krishnappa Nalavade

Dead by his LRs:

- (a) Smt.Champabai
W/o. Annappa Nalavade
Age: 80 years, Occ: Household work
R/o.Nalavade Plots, Mudhol
Tq: Mudhol, Dist: Bagalkot.
- (b) Smt.Sonubai
W/o.Balasaheb Chavan
Age: 58 years, Occ: Household work
R/o.Jath, Dist: Sangali, Maharashtra.
- (c) Smt.Shantabai
W/o.Narasappa Naroji
Age: 52 years, Occ: Household work
R/o.Nalavade Plots, Mudhol
Tq: Mudhol, Dist: Bagalkot.
- (d) Smt.Chandrabai
D/o.Annapa Nalavade
Age: 50 years, Occ: Household work
R/o.Nalavade Plots, Mudhol,
Tq: Mudhol, Dist: Bagalkot.
- (e) Krishna
S/o.Annapa Nalavade
Age: 48 years, Occ: Agriculture
R/o.Nalavade Plots, Mudhol
Tq: Mudhol, Dist: Bagalkot.
- (f) Smt.Lata
W/o.Sadashiv Nalavade
Age: 40 years, Occ: Household work
R/o.Nalavade Posts, Mudhol

Tq: Mudhol, Dist: Bagalkot.

- (g) Smt.Shakuntala
 W/o.Jyotiram Jadhav
 Age: 40 years, Occ: Household work
 R/o.Islampur, Tq: Wahva, Dist: Sangli
 Maharashtra State.
- (h) Shankar
 S/o.Annappa Nalavade
 Age: 39 years, Occ: Agriculture
 R/o.Nalavade Plots, Mudhol
 Tq: Mudhol, Dist: Bagalkot. ...Appellants

(By Sri. Jayakumar S.Patil, Sr.Counsel for
 Sri. Jagadish Patil, Adv.)

AND:

The Special Land Acquisition Officer
 Upper Kirshna Project
 Bilagi, Tq: Bilagi, Dist: Bagalkot. ...Respondent

(By Sri. C.S.Patil, GA)

This MFA is filed under Section 54(1) of the LA Act against the Judgment and Award dated 24.8.2012 passed in LAC No.109/2004 on the file of Senior Civil Judge at Mudhol, partly allowing the reference petition for compensation and seeking enhancement of compensation.

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These MFAs after having heard the learned counsel for the parties, having been reserved for Judgment,
B. Sreenivase Gowda, J, delivered the following:

JUDGMENT

These appeals are by the owners of the acquired lands seeking enhancement of compensation as against the market value determined by the Reference Court.

2. MFA Nos. 25301 to 25303 of 2012 are arising out of a common Judgment, but separate awards dt. 24-08-12 passed in LAC Nos. 107, 106 and 108 of 2004 and MFA No. 25304 of 2012 is arising out of a separate judgment and award of even dt. 24-08-12 passed in LAC No. 109 of 2004 by the Court of Senior Civil Judge, Mudhol.

3. As the lands involved in all these cases came to be acquired pursuant to the common preliminary notification dt. 25-01-03 issued under Section 4(1) of the Land Acquisition Act (herein after referred to as 'L.A. Act' for short) for the same purpose, all these appeals have been heard together, reserved for judgment and disposed of by this common judgment.

4. Facts leading to these appeals are stated as under:

The respondent by preliminary notification dt. 25-01-03 issued under Sec.4(1) of the L.A. Act and followed by final notification dt. 26-03-03 issued under Sec. 6(1) of the L.A. Act, has acquired the lands belonging to the appellants in Sy.No.554/1 measuring 16 acres 27 guntas, Sy.No. 554/2 measuring 15 guntas, Sy.No. 555/2 measuring 3 acres 34 guntas and Sy.No. 553/A/1 measuring 9 acres 14 guntas situated at Mudhol village and taluk for the purpose of construction of Rehabilitation Centre in favour of the displaced persons of Gudadinni village of Bilagi taluk, whose properties came to be submerged under Upper Krishna project. The respondent by awards dt. 22-07-03 has determined the market value of the acquired lands at the rate of Rs.96,164/- per acre.

5. The appellants being aggrieved by the awards made by the respondent have filed applications on 03-10-03 under Sec. 18(1) of the L.A. Act before the respondent seeking to refer their cases to the jurisdictional Reference Court for determination of market

value of their lands and the respondent submitted their applications before the Senior Civil Judge, Mudhol and their applications came to be registered on it's file as LAC Nos. 107, 106, 108 and 109 of 2004.

6. The Reference Court has clubbed LAC Nos.106, 107 and 108/2004 together and it has recorded common evidence in LAC No.107/2004. The claimants in LAC Nos. 107, 106 and 108 of 2004 in support of their cases have examined Sri. Milind who is the second claimant in LAC No. 107 of 2004 and the third claimant in LAC No. 108 of 2004 as P.W.1 and seven other independent witnesses as P.Ws. 2 to 8 respectively. Documents produced by them were marked as Exs. P.1 to P.102. On behalf of the respondent, two Special Land Acquisition Officers of Upper Krishna Project, Bilagi, who worked for different periods were examined as R.Ws. 1 and 2, and documents produced by the respondent were marked as Exs. R.1 to R.6. Whereas the claimants in LAC No.109 of 2004, have examined the claimant No.1E - Krishna as P.W.1 and seven other independent witnesses as P.Ws. 2 to 8 respectively. Documents produced by them were marked

as Exs. P.1 to P.82. On behalf of the respondent, two Special Land Acquisition Officers of Upper Krishna Project, Bilagi, who worked for different periods were examined as R.Ws. 1 and 2 and documents produced by the respondent were marked as Exs. R.1 and R.2.

7. The Reference Court by relying upon its earlier judgment dt. 18-12-09 passed in LAC No.1659/2000, wherein the market value was determined at the rate of Rs.5,00,000/- per acre has fixed the market value of the acquired lands of the appellants at the rate of Rs.5,00,000/- per acre and has awarded the compensation of Rs.6,75,000/- per acre inclusive of Rs.1,75,000/- per acre towards escalation price at the rate of 5% per annum from 21-08-96, the date on which the 4(1) notification was issued in LAC No.1659/2000 till 25-01-03 the date on which 4(1) notification was issued in the present cases with all other statutory benefits.

8. Appellants aggrieved by the compensation determined by the Reference Court are before this Court

seeking enhancement of compensation on the following grounds :

- (1) The market value determined by the Reference Court is too low compared to the actual market value of their acquired lands and it is quite meager and inadequate.
- (2) Their acquired lands being situated within the Municipal limits of Mudhol town have got very high N.A. potential value.
- (3) Some portion from each survey number of the acquired lands had been converted into non-agricultural purpose way back in the year 1972 and the persons who have purchased plots in the said converted lands prior to the acquisition of the acquired lands have constructed beautiful residential as well as commercial buildings.
- (4) Mudhol is a prominent taluk of Bagalkot district in North Karnataka and as such, their lands are located in a highly potential area.
- (5) Their acquired lands are situated in a most advanced and developed agricultural belt and they are well irrigated, and they used to

grow commercial crops like sugar cane, cotton, etc.

- (6) There are nine large scale sugar factories, four cement factories and other small scale industries in Mudhol taluk.
- (7) There are good irrigation and drinking water facilities which contribute mainly to this highly commercial town.
- (8) Their acquired lands are situated in the midst of KHB colony, B.V.V. Sangha's Educational Institutions, KSRTC depot, cinema theatre, bus stand, Police station, market, commercial buildings and beautiful ultra modern residential buildings.
- (9) Their acquired lands are abutting to the State highway which runs from Mudhol to Bijapur via Bilagi.

9. Sri. Jayakumar S. Patil, learned Senior Advocate representing Sri. Jagadish Patil who appeared for the appellants submits, when appellants have produced several sale deeds relating to the very same survey numbers of the acquired lands and the adjacent

lands, the Reference Court ought to have awarded the compensation on the basis of sales statistics by considering the sale deed which has the highest sale consideration, as the basis for determination of fair market value of the acquired lands. Learned Senior Counsel further submits, the Reference Court has committed a grave error in determining the market value of the acquired lands of the appellants based on its earlier judgment in LAC No. 1659 of 2000 which came to be passed on the basis of a judgment of this Court in MFA.Crob.No. 271 of 2007 dt. 26-11-08 which in turn was passed based on a judgment of the Division Bench of this Court in MFA No.1340 and 1341 of 2001 connected with MFA.Crob.Nos. 143 and 144 of 2003 even though the certified copies of those judgments were not produced and marked as exhibits.

10. With regard to deduction towards cost of development of acquired lands, learned Senior Counsel submits, it may be between 20 to 33 % per acre. With regard to escalation of price he submits, it may be between 10 to 12 % per annum. With this, he prays for

allowing the appeals by enhancing the compensation awarded by the Reference Court.

11. In support of his arguments he has relied upon the following judgments:

1. AIR 1975 SC 1670 – The Dollar Company, Madras v. Collector of Madras.
2. (2009) 14 SCC 758 – Satish and others v. State of Uttar Pradesh and others.
3. 2012 (5) SCC 432 – Mehrawal Khewaji Trust (Registered), Faridkot and others v. State of Punjab and others.
4. AIR 1992 SC 2298 – Bhagwathula Samanna and others v. Special Tahsildar and Land Acquisition Officer, Vishakhapatnam Municipality.
5. AIR 2003 SC 202 – Kasturi and others v. State of Haryana.
6. AIR 2002 SC 1558 – Special Land Acquisition Officer, BYDA, Bagalkot v. Mohd. Hanif Sahib Bawa Sahib.
7. AIR 1998 SC 1652 – Chimanlal Hargovinddas v. Special Land Acquisition Office, Poona and another and others.
8. AIR 1979 SC 472 – The Collector, Raigarh v. Dr. Harisingh Thakur and another.
9. ILR 1997 Kar. 2063 – The Asst. Commissioner v. Smt. Kamalabai Kom. Laxman Metri.

10. 2005 SAR (Civil) 870 – Ranvir Singh and another v. Union of India.

12. Learned Government Advocate appearing for the respondent submits, the lands involved in LAC No. 1659/2000 and in MFA No. 1340 and 1341/2001 were acquired for construction of Rehabilitation Centre for the displaced persons from Girigaon village and the lands in the present cases are acquired for establishment of Rehabilitation Centre for displaced persons of Gudadinni village in Bilagi taluk. Therefore the Reference Court considering the fact that the lands in both the cases were acquired for one and the same purpose and applying the principles of escalation of price at the rate of 5% p.a. is justified in awarding compensation at the rate of Rs.6,75,000/- per acre with all statutory benefits.

13. He submits, the sale deeds produced by the appellants are created by them with an intention to secure more compensation anticipating acquisition of their lands by the Government in future and therefore, the Reference Court is justified in not relying upon those sale

deeds. He submits, the lands of the appellants were agricultural lands as on the date of issuance of 4(1) notification and they were situated in an under developed area and they do not fetch more value than what has been determined by the Reference Court. He submits, the market value as determined by the Reference Court is just and adequate. As such, there is no illegality or infirmity in the judgments and awards passed by the Reference Court warranting interference of this Court. With this he prays for dismissal of all the appeals. In support of his submissions he relied upon the following judgments :

1. MFA No.1340-41/2001 c.w. MFA CROB 143-144/2003.
 2. 2012 (5) KLJ 308 (SC) – Special Land Acquisition Officer, City Improvement Trust Board vs. S.G. Channabasavana Gowda and another.
 3. AIR 1996 SC 3486 – Land Acquisition Officer and Assistant Commissioner, Mangalore, vs. Belekal Krishna Bhat.
 4. MFA 505/2001 c.w. MFA CROB No.50/2001
14. After hearing the learned Counsel for the parties and perusing the judgment and awards of the

Reference Court, points that arise for our consideration are :

- (1) Whether the Reference Court is justified in determining the market value of the acquired lands of the appellants at the rate of Rs.5,00,000/- per acre based on its earlier judgment in LAC No.1659/2000 and awarding compensation at the rate of Rs.6,75,000/- per acre, inclusive of escalation price at the rate of 5% p.a. from 1996, the year during which the preliminary notification was issued for acquiring the lands involved in LAC No. 1659/2000 up to the year 2003, the year during which 4(1) notification was issued for acquiring the lands in the present cases?
- (2) Whether the quantum of compensation awarded by the Reference Court needs to be modified and enhanced?
- (3) What order or award?

Regarding point No.1 :

15. The Reference Court has determined the market value of the acquired lands of the appellants by relying upon its earlier judgment rendered in LAC No.1659/2000 which in turn came to be passed on the basis of a judgment of this Court in MFA.Crob.No. 271/07 which came to be passed by relying upon a Division Bench judgment of this Court in MFA Nos.1340 and 1341/01

c/w. MFA.Crob.Nos.143 & 144/2003 arising out of LAC Nos.377 and 376/99, solely on the ground that lands in both these cases i.e in LAC Nos. 377 & 376/99 and LAC No.1659/2000 and in the present cases i.e. LAC Nos.106 to 109/2004 were acquired for one and the same purpose i.e. for establishment of Rehabilitation Centres for displaced persons of Girigaon and Gudadinni villages of Bilagi taluk whose properties came to be submerged under Upper Krishna Project.

16. It is relevant to note that the certified copy of the judgment of either LAC No.1659/2000 or LAC Nos.377 & 376/99 or judgment of this Court in MFA.Crob.No. 271/07 dated 26.11.2008 or MFA.Nos. 1340 & 1341/01 C/w.MFA.Crob.Nos.143 & 144/03 disposed of on 03.11.03 is neither produced and marked as exhibits nor copies of the above judgments are made available in the records of the Reference Court.

17. In fact, it is the submission of the learned Senior Counsel appearing for the appellants that, in the absence of production of a certified copy of the judgment

in LAC No.1659/2000, the Reference Court is not justified in determining the market value of the acquired lands by relying upon the said judgment. In support of his submission, he relied upon a decision of the Hon'ble Supreme Court in the case of **Chimanlal Hargovind Das vs. Spl.LAO, Poona and another** reported in **AIR 1988 SC 1652** wherein it was held that the material relied on by the Land Acquisition Officer in his award cannot be relied upon unless the same is produced and proved. Be that as it may, the particulars regarding situation and condition of the land acquired in LAC No.1659/2000 are neither available in the record of the Reference Court nor discussed by the Reference Court in the course of its judgment except stating that the lands in both the cases were acquired for one and the same purpose. Therefore, the Reference Court could not have determined the market value of the acquired lands of the appellants based on its earlier Judgment in LAC No. 1659/2000. Further, the market value determined by the Reference Court by relying upon its earlier judgment in LAC No. 1659/2000 is not sustainable in law for more than one reason:

18. Firstly, by perusal of a photo copy of the judgment in MFA.Nos.1340 & 41/2001 connected with MFA.Crob.Nos.143 & 144/03 disposed of on 03.11.03 which was made available to us for the first time in these appeals by the learned Government Advocate appearing for the respondent, we notice that the lands bearing Sy.Nos.221/1, 222/A/1 & 222/A/2 situated at Mudhol town of Bagalkot District came to be acquired for rehabilitation centre for the displaced persons of Girigaon village by issuing 4(1) notification dated 21.03.96 whereas the lands in the present case came to be acquired pursuant to 4(1) notification issued on 25.01.03 and there has been gap of seven years between the two notifications and much water has flown during these seven years.

19. Secondly, as seen from Ex.P.***8** - the Outline Development Plan of Mudhol town for 2007 A.D. and Ex.P.***33** the Final Approved Layout Plan of Mudhol town both issued by the Assistant Director of Town Planning, Jamkhandi, the lands bearing S.No.221/1, 221/A/1, 222/A/2 are situated far away from the acquired lands of

* Corrected vide
Court order dated
28/01/2015

the appellants and there is no similarity between these two lands.

20. Thirdly, the acquired lands of the appellants came to be included in the Municipal limits of Mudhol town vide Government Order dated 09-12-96 i.e. after issuance of preliminary notification dated 21-03-96 in LAC Nos. 376, 377/99 and LAC No.1659/2000.

21. Fourthly, the Reference Court declined to rely upon the sale transactions relating to the very same survey numbers of the acquired lands and the adjacent lands on the ground that those sale transactions have come into existence after dropping of earlier notification issued in the year 1996 under Sec.4(1) of the Act proposing to acquire the lands of the appellants and before issuing the present notification dt. 25-01-03 under Sec. 4(1) of the Act for acquiring the said lands of the appellants. It is to be noted, that the notification said to have been issued during the year 1996 proposing to acquire the lands of the appellants is neither available in the records of the Reference Court nor the particulars of

the said notification has been referred to by the Reference Court in its judgment. However, it is not the case of the respondent that the present 4(1) notification dt. 25-01-03 was issued in view of lapse of earlier notification issued in the year 1996, whereas it is their case that the acquisition sought to be initiated under earlier notification was dropped on the ground that lands were not required as stated by R.W.2 in his evidence.

22. Fifthly, it is not disputed that the function of the Court in awarding compensation under the LA Act is to ascertain the market value of the land as on the date of notification under Sec. 4(1) of the Act and the methods of valuation may be – (i) opinion of experts, (ii) the price paid within a reasonable time in bona fide transactions of purchase of the lands acquired or the lands adjacent to the land acquired and possessing similar advantages and (iii) the number of years purchase of the actual or immediately prospective profits of the lands acquired. It is not the case of either of the parties to the proceedings that compensation is to be determined on the basis of opinion of an expert, nor it is their case that it should be

on the basis of a number of years purchase of the actual purchase or immediate prospective profits of the lands acquired and further no evidence is adduced by either of the parties to that effect. Therefore the only way left out for the Reference Court to determine the market value of the acquired land is the sales statistics method and in fact appellants have adduced evidence to that effect.

23. Sixthly, the lands of the appellants came to be acquired by the respondent for the purpose of construction of Rehabilitation Centre for displaced persons of Gudadinni village of Mudhol taluk and it is a case of compulsory acquisition. Therefore compensation for compulsory acquisition is governed by Sec. 23 of the L.A. Act, which gives high priority to the market value of the land as on the date of the publication of the notification under Sec. 4(1) of the Act. The main criteria to determine the market value is, what a willing purchaser would pay a willing vendor. An actual transaction with respect to the specific land of recent date is a guide book that Courts may not neglect when called upon to fix the

precise compensation, as has been held by the Apex Court in the following cases.

- a) *The Dollar Company, Madras v. Collector of Madras, reported in AIR 1975 SC 1670.*
- b) *Satish and Others Vs. State of Uttar Pradesh and others Reported in 2009(14) SCC 758.*
- c) *Mehrawal Khewaji Trust (Registered), Faridkot and others vs. State of Punjab and others, reported in (2012) 5 SCC 432.*

24. Therefore, the Reference Court is not justified in determining the market value of the acquired lands belonging to the appellants only by relying upon its earlier judgment in LAC No. 1659/2000 and discarding the other evidence available on record. Thus, in the facts and circumstances of the case and for the reasons stated herein above, the Reference Court ought to have determined the market value of the acquired lands of the appellants on the basis of sales statistics method. Point No.1 is answered accordingly.

Regarding point No.2 :

25. As already stated above the Reference Court has clubbed LAC Nos. 106 to 108/2004 which are the subject matter of MFA Nos.25301 to 303/2012 together and has recorded common evidence in LAC No.107/2004 and disposed of these cases by a common judgment. Although the Reference Court has disposed of LAC No.109/2004 which is the subject matter of MFA No. 25304/2012 by a separate judgment, since evidence - both oral and documentary, adduced in the said case is almost similar to one recorded in LAC No.107/2004, it is sufficient if we discuss the evidence recorded in LAC No.107/2004.

26. Claimants have produced about eleven sale deeds at Exs.P.***34** to ***45** which are pertaining to the acquired lands and the lands adjacent to the lands acquired and therefore it is relevant to discuss with reference to each sale deed.

27. Ex. P.***34** is the sale deed dt. 06-04-2000 wherein Plot No.4 formed in RS No.556 measuring

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25 x 55 ft.(127.74 sq.mtrs.) was sold by Kallappa Hanumanthappa Bhoosareddi in favour of Seshappa Bhimappa Soragavi and others for Rs.1,70,000/- according to which, the sale price per square feet comes to Rs.85/-.

28. Ex. P.***35** is the sale deed dated 12-05-2000 wherein the Plot No.171 formed in RS No.219 measuring 40 x 20 ft. was sold by Aminsaheb and others in favour of Mahadev Topavalli for Rs.56,000/- and according to which, the sale price per square feet comes to Rs.70/-.

29. Exs. P.* **36** and P.***37** are sale deeds dt. 01-02-01 and 02-02-01 wherein plot Nos.45 and 44 each measuring 12 x 12 sq.mtrs. (40 x 40 ft.) formed in Sy.No.555/1 were sold by Sachin Siddanagouda Valli and five others in favour of Surekha Bhimanagouda Patil and Sangana gouda @ Shashikanthgouda Bheemanagouda Patil respectively for Rs.3,50,000/-(for each plot), according to which the sale price per square feet comes to Rs.218/-.

30. Ex.P.***38** is the sale deed dated 17-07-01 wherein a plot measuring 12 x 45 ft. formed in

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Court order dated
28/01/2015

Sy.No.530/B/3 was sold by Mohanlal Vora in favour of Basaiah Panchaksharaiah Chikmath for Rs.43,500/-, according to which the sale price per square feet comes to Rs.80/-.

31. Ex. P.***39** is the sale deed dated 21-07-01 wherein the plot Nos.26 and 27 each measuring 30 x 40 ft. formed in RS 529/1 were together sold by Basavanh Bheemarayappa Tolamatti to Sridhar Markandeya Kulkarni for Rs.1,65,000/-, according to which the sale price per square feet would be Rs.69/-.

32. Ex. P.***40** is the sale deed dated 26-07-01 wherein the plot No.10 measuring 29 $\frac{1}{2}$ x 49 $\frac{1}{2}$ ft. formed in Sy.No.553 was sold by Jaibunnisa and others in favour of Mantappa and Ashok for Rs.80,000/-, according to which the sale price per square feet comes to Rs.55/-.

33. Ex. P.***41** is the sale deed dt. 20-12-01 wherein a plot measuring 12 x 45 sq.ft. formed in RS 530/B/3 was sold by Jitesh in favour of Sonabai for Rs.54,000/- according to which the sale price per square feet comes to Rs.100/-.

* Corrected vide Court order dated 28/01/2015

34. Ex. P.***43** is the sale deed dated 02-09-02 wherein a plot measuring 60 x 60 sq.ft. formed in RS No.554 was sold by Vithal Rao Hanumantharao Bhosale in favour of Anil Chandra Kalal for Rs.2,30,000/- according to which, the sale price per square feet comes to Rs.64/-.

35. Ex.P.***44** is the sale deed dt. 05-09-02 wherein plots measuring 10 x 65 sq.ft and 50 x 65 formed in Sy.No.556 were together sold by Smt. Ushadevi and others in favour of Smt.Chaya for Rs.2,05,000/- according to which, the sale price per square feet comes to Rs.65/-.

36. Ex.P.63 is the sale deed dt. 05-09-02 wherein, a plot measuring 40 x 65 sq.ft. formed in Sy.No.556 was sold by Ushadevi and 6 others in favour of Prathibha for Rs.1,69,000/-, according to which, the sale price per square feet comes to Rs.65/-.

37. The sale deeds produced at Exs. P.***34, 35, 38, 39, 41, 44 and 45** are pertaining to plots formed in Sy. No. 556, 219, 530/B/3, 529/1 and they are not carved out of the survey numbers of the acquired survey numbers and

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28/01/2015

they are in respect of survey numbers situated adjacent to the lands acquired. Whereas the sale deeds produced at Exs.P.***36, 37, 40 and 43** are pertaining to the plots formed in the converted portion of the survey numbers of the acquired lands. Therefore, it is most appropriate and proper to consider only those sale deeds for determining the market value of the acquired lands as has been held by the Hon'ble Supreme Court in the case of **Ranvir Singh and another vs. Union of India**, reported in **2005 SAR (Civil) 870** and **Satish and Others Vs. State of Uttar Pradesh and others** reported in **2009(14) SCC 758**, wherein it was held that the sale deeds pertaining to portions of lands which are subject to acquisition would be most relevant piece of evidence for assessing market value of acquired land. Therefore, it is relevant to discuss further about the sale deeds produced at Exs. P.***36, P.37, P.40 and P.43.**

38. The sale deeds at Ex.P***36** and ***37** are dt. 01-02-01 and 02-02-01 respectively, wherein plot Nos. 45 and 44 each measuring 12 x 12 sq.mtrs (40 x 40 sq.ft.) are formed in the portion of one of the acquired survey

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numbers of the acquired lands i.e. RS 555/1 but, it is not safe to rely upon these sale deeds for more than one reasons : firstly these sale deeds are two years prior to the preliminary notification dated 25.01.2003 issued under Sec. 4(1) of the L.A. Act for acquiring the lands of the appellant. Secondly, they are earlier in point of time compared to the sale deeds at Ex.P***40** and **43**. Thirdly PW.8 who has purchased plot No.44 under Ex.P56 in his evidence has admitted that the vendors of the sale deeds at Exs. P.***36** and **37** are related to the owners of the acquired lands i.e. the appellants. Fourthly, Ex. P.55 and 56 have come into existence within a gap of one day.

39. The sale deed at Ex.P.***40** is dt. 26-07-01, wherein the plot No.10 measuring 29 $\frac{1}{2}$ x 49 $\frac{1}{2}$ feet formed in the portion of one of the survey numbers of the acquired lands i.e. in Sy.No.553 was sold by Jaibunnisa and others in favour of Mantappa and Ashok for Rs.80,000/-, according to which the sale price per square feet comes to Rs.55/-. This sale deed also cannot be relied upon for the reasons that : firstly it is 1 $\frac{1}{2}$ years earlier to the preliminary notification issued under Sec.

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4(1) of the L.A. Act, secondly it is earlier in point of time compared to the sale deed at Ex.P. ***43** and thirdly the sale consideration shown in this sale deed is lesser in value than the one shown in Ex.P. ***43**.

40. The sale deed Ex.P. ***43** is dt. 02-09-02 wherein a plot measuring 60 x 60 square feet formed in the portion of one of the survey numbers of the acquired lands i.e. R.S.No.554/1 was sold for Rs.213/- and according to which the sale price per square feet comes to Rs.64/-. It is most appropriate and proper to rely upon this sale deed for the reasons firstly, the gap between this sale deed and the preliminary notification dt. 25-01-03 issued under Sec.4(1) of the L.A. Act is just 4 months 12 days, secondly, the price shown in this sale deed is higher than the one shown in the sale deed Ex.P.59 and thirdly no allegation is made out by the respondent with regard to genuineness and bonafide of this sale deed.

41. Now, the question would be how much should be deducted from the sale price shown at the sale deed Ex.P. ***43** towards developmental charges ?

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42. The Hon'ble Supreme Court in the case of

ASHRAFI AND OTHERS v. STATE OF HARYANA AND OTHERS reported in **(2013) 5 SCC 527** has held deduction of 33 - 1/3% towards development costs in respect of acquisition of developed lands situated within the Municipality area would be more appropriate. It is more useful if paragraph 48 of the said judgment is extracted.

“48. This brings us to the last part of the submissions made with regard to the amount of deduction effected in respect of the various properties. The general cut imposed is at a flat rate of 40%, which, in our view, is not warranted on account of the fact that the lands in question have lost their character and potentiality as agricultural lands and have more or less been converted into lands which were ready for use for the purpose of construction. Taking Ms. Agarwal’s submissions regarding the factors which determine deduction towards development cost, such as location and potentiality, into account, we are of the view that a deduction of 33-1/3% would be reasonable on account of the passage of time and the all-round development in the area which has made it impossible for the lands to retain their original character.”

43. The relevant factors which are required to be considered as to how much is to be deducted towards cost of development, is more clearly stated in the case of **LAL CHAND v. UNION OF INDIA** reported in **LAWS(SC)-2009-8-4** wherein the Hon'ble Supreme Court has held as under :

"4. On careful consideration, we are of the view that such allotment rates of plots adopted by Development Authorities like DDA cannot form the basis for award of compensation for acquisition of undeveloped lands for several reasons. Firstly market value has to be determined with reference to large tracts of undeveloped agricultural lands in a rural area, whereas the allotment rates of development authorities are with reference to small plots in a developed lay out falling within Urbana. Secondly DDA and other statutory authorities adopt different rates for plots in the same area with reference to the economic capacity of the buyer, making it difficult to ascertain the real market value, whereas market value determination for acquisitions is uniform and does not depend upon the economic status of the land loser. Thirdly we are concerned with market value of freehold land, whereas the allotment "rates" in the DDA Brochure refer to the initial premium payable on allotment of plots on leasehold basis. We may elaborate on these three factors.

First factor: The percentage of 'deduction for development' to be made to

arrive at the market value of large tracts of undeveloped agricultural land (with potential for development), with reference to the sale price of small developed plots, varies between 20% to 75% of the price of such developed plots, the percentage depending upon the nature of development of the lay out in which the exemplar plots are situated. The 'deduction for development' consists of two components. The first is with reference to the area required to be utilised for developmental works and the second is the cost of the development works. For example if a residential layout is formed by DDA or similar statutory authority, it may utilise around 40% of the land area in the layout, for roads, drains, parks, play grounds and civic amenities (community facilities) etc. The Development Authority will also incur considerable expenditure for development of undeveloped land into a developed layout, which includes the cost of levelling the land, cost of providing roads, underground drainage and sewage facilities, laying waterlines, electricity lines and developing parks and civil amenities, which would be about 35% of the value of the developed plot. The two factors taken together would be the 'deduction for development' and can account for as much as 75% of the cost of the developed plot. On the other hand, if the residential plot is in an unauthorised private residential layout, the percentage of 'deduction for development' may be far less. This is because in an un-authorized lay outs, usually no land will be set apart for parks, play grounds and community facilities. Even if any land is set apart, it is likely to be minimal. The roads and

drains will also be narrower, just adequate for movement of vehicles. The amount spent on development work would also be comparatively less and minimal. Thus the deduction on account of the two factors in respect of plots in unauthorised layouts, would be only about 20% plus 20% in all 40% as against 75% in regard to DDA plots. The 'deduction for development' with references to prices of plots in authorised private residential layouts may range between 50% to 65% depending upon the standards and quality of the layout. The position with reference to industrial layouts will be different. As the industrial plots will be large (say of the size of one or two acres or more as contrasted with the size of residential plots measuring 100 sq.m. to 200 sq.m.), and as there will be very limited civic amenities and no playgrounds, the area to be set apart for development (for roads, parks, playgrounds and civic amenities) will be far less; and the cost to be incurred for development will also be marginally less, with the result the deduction to be made from the cost of a industrial plot may range only between 45% to 55% as contrasted from 65 to 75% for residential plots. If the acquired land is in a semi-developed urban area, and not an undeveloped rural area, then the deduction for development may be as much less, that is, as little as 25% to 40%, as some basic infrastructure will already be available. (Note: The percentages mentioned above are tentative standards and subject to proof to the contrary).

Therefore the deduction for the 'development factor' to be made with reference to the price of a small plot in a developed lay out, to arrive at the cost of undeveloped land, will be for more than the deduction with reference to the price of a small plot in an unauthorized private lay out or an industrial layout. It is also well known that the development cost incurred by statutory agencies is much higher than the cost incurred by private developers, having regard to higher overheads and expenditure. Even among the layouts formed by DDA, the percentage of land utilized for roads, civic amenities, parks and play grounds may vary with reference to the nature of layout - whether it is residential, residential-cum-commercial or industrial; and even among residential layouts, the percentage will differ having regard to the size of the plots, width of the roads, extent of community facilities, parks and play grounds provided. Some of the layouts formed by statutory Development Authorities may have large areas earmarked for water/sewage treatment plants, water tanks, electrical substations etc. in addition to the usual areas earmarked for roads, drains, parks, playgrounds and community/civic amenities. The purpose of the aforesaid examples is only to show that the 'deduction for development' factor is a variable percentage and the range of percentage itself being very wide from 20% to 75%.

5. Second factor: DDA and other statutory development authorities adopt different rates for allotment, plots in the same layout, depending upon the

economic status of the allottees, classifying them as high income group, middle income group, low income group, and economically weaker sections. As a consequence, in the same layout, plots may be earmarked for persons belonging to economically weaker section at a price/premium of Rs. 100/- sq.m, whereas the price/premium charged may be Rs.150/- per sq.m for members of low income group, Rs.200/- per sq.m for persons belonging to middle income group and Rs. 250/- per sq. m. for persons belonging to High income groups. The ratio of sites in a layout reserved for HIG, MIG, LIG and EWS may also vary. All these varying factors reflect in the rates for allotment. It will be illogical to take the average of the allotment rates, as the 'market value' of those plots, does not depend upon the cost incurred by DDA statutory authority, but upon the paying capacity of the applicants for allotment.

6. Third factor: Some development authorities allot plots on freehold basis, that is by way of absolute sale. Some development authorities like DDA allot plots on leasehold basis. Some have premium which is almost equal to sale price, with a nominal annual rent, whereas others have lesser premium, and more substantial annual rent. There are standard methods for determining the annual rental value with reference to the value of a freehold property. There are also standard methods for determining the value of freehold (ownership) rights with reference to the annual rental income in regular leases. But it is very difficult to arrive at the market value of a freehold property with reference to the

premium for a leasehold plot allotted by DDA. As the period of lease is long, the rent is very nominal, some times there is a tendency among public to equate the lease premium rate (allotment price) charged by DDA, as being equal to the market value of the property. However, in view of the difficulties referred to above, it is not safe or advisable to rely upon the allotment rates/auction rates in regard to the plots formed by DDA in a developed layout, in determining the market value of the adjoining undeveloped freehold lands....

16. But when the market value of such small plots intended for non-agricultural purposes is made the basis for determining the market value of large tracts of agricultural lands, it is necessary to make an appropriate deduction towards 'development' factor. The evidence shows that the acquired lands were at the relevant time (1981) in a rural area on the outskirts of Delhi, with access to roads and services nearby. In fact the Municipal Corporation of Delhi, within a few months after the acquisition, issued a notification dated 23/4/1982, under section 507(a) of Delhi Municipal Corporation Act, 1957 declaring that Rithala in the northern zone of Delhi shall cease to be a rural area. The appellants have also let in evidence to show that the acquired lands were situated in an area having a potential for development for residential use. The policy resolution dated 27.12.1980 of Delhi Development Authority in regard to development of Zones H7 and H8 (Rohini Scheme) in North-West Delhi shows that the area was earmarked for fast urban development.

Some facilities like roads, water, electricity had reached the area in a limited manner. Therefore, the appropriate deduction towards development, needs to be only 40% instead of the higher standard percentage of 60% to 70%.

44. The Division Bench of this Court in the case of

Smt. Parvatibai vs. Deputy Commissioner, Gulbarga

District, Gulbarga and others reported in **2004(3)**

Kar.L.J. 6(DB) has held that the Reference Court is justified in applying the developmental expenses of 53% even in respect of a case where agricultural lands are located in the midst of a relatively developed area.

45. By a reading of the aforesaid judgments of the Hon'ble Supreme Court and of our High Court, it is clear that the amount of deduction towards development charges depends upon the condition and situation of the land sought to be acquired and consequently it depends upon facts and circumstances of each case.

Therefore it has become necessary for us to discuss the evidence adduced by the parties in order to know the situation and condition of the acquired lands.

46. P.W.1 - Milind who is claimant No.2 in LAC No. 107/2004, and claimant No.3 in LAC No. 108/2004 examined on his behalf and on behalf of other claimants in LAC Nos. 106 to 108/2004 as their GPA Holder, in his examination in chief has reiterated what these claimants have stated in their claim petitions filed under Sec. 18(1) of the L.A. Act, which were marked as Exs. P.2, P.1 and P.3 respectively and Ex.P.1 in LAC No. 109/2004 and the same has been briefly stated in para 7 of our judgment.

47. P.W.1 in his cross examination admits that 20 guntas of land in Sy.No.532/1B was sold on 23-01-01 for Rs.46,000/-. He admits that in the claim petitions marked at Exs. P.1 to P.3 the sugar cane crop is shown to have been grown. He admits that Lokapur Cement, Ratna Cement and Quality Cement factories are situated 10 to 15 kms. away from Mudhol and Lokapur Cement and Quality Cement are situated in Lokapur village and they are closed since 1985 and are not functioning till day. He deposes that claimants have not given applications for

conversion of their lands prior to issuance of 4(1) notification for acquiring their lands.

48. P.W.2 – Ramesh Shivappa Sunagar is none other than the Chief Officer of the Mudhol Municipal Council. He has stated in his evidence that the lands bearing R.S.No.469, 468, 554, 555 and 553 are situated within the Municipal limits of Mudhol town and he has issued a certificate in favour of the claimants to that effect on the application submitted by them, which is marked as Ex.P.12 and the contents of Ex.P.12 are true and correct. In his cross examination, he has stated that the acquired lands of the appellants are situated towards east of Mudhol and towards east of Mudhol there is a canal which runs from north to south. After the said canal, towards north there is Mudhol-Galgali road, On the right side of the road there is Sy.No. 555.

49. P.W.3 – Basavaraj Veerappa Chittavadagi is the Assistant Director of Jamkhandi Town Development Authority. He has stated in his evidence that Exs.P.13 and P.14 are issued by his predecessor and Exs. P.83 and

84 are issued by him. The matter contained therein are true and correct. He has stated that Sy.Nos. 553, 554 and 555 of Mudhol are coming within the area reserved for residential purposes. He has also stated that the acquired lands are situated towards east of Mudhol town and there is a canal towards east of Mudhol which runs from north to south and towards east there is road from Mudhol to Galgali and after Galgali the said road proceeds towards Bijapur, Gulbarga, Sholapur and Raichur. He has stated, that he has prepared the future development plan marked at Ex.P.83.

50. P.W.4 – Hrishikesh has stated in his evidence that he is a Chartered Engineer and has obtained licence from Hubli-Dharwad Municipal Corporation and is a Government Approved Valuer. Since it is not the claim of either of the parties to the proceedings that the market value of the acquired lands of the appellants is required to be determined on the basis of opinion of an expert, it is unnecessary to discuss his evidence.

51. P.W.5 – Ramesh is a photographer and he has been examined to speak on the photographs relating to the acquired lands, which he has taken at the instance of the claimants which were produced by the claimants and marked as Exs. P. 64 to 81. In the cross examination he pleads ignorance about the situation and condition of the acquired lands. Even otherwise, the market value of the acquired lands cannot be determined on the basis of the buildings appeared in the photographs and therefore it is not useful to discuss about his evidence.

52. P.W.6 – Jeetesh is the owner of a plot formed in R.S.No.530/B/3, approximately measuring 12 feet x 45 feet, of Mudhol town which is converted from agricultural to non-agricultural purpose. Since it is situated towards south and at a far away distance from the lands of the appellants, it is not worth discussing his evidence.

53. P.W.7 – Kallappa Hanamappa Bhusaraddi has stated in his evidence that he had purchased a plot in the converted land of R.S.No. 556 measuring 25 feet x 55 feet and he had sold the same to one Sri. Sheshappa

Bheemappa Soragavi for Rs.1,17,000/-. Since, this sale deed is pertaining to a plot formed in a different survey number and is not in respect of a site formed in part and parcel of any of the survey numbers of the acquired lands, it is not useful to discuss his evidence.

54. P.W.8 – is one Sanganagouda. He has stated in his evidence that he has purchased plot No.44 measuring 12 x 12 metres formed in the converted land bearing R.S.No. 551/1 of Mudhol town on 2-2-2001 from its previous owners Sri. S.T.Valli and others for a consideration of Rs.3,50,000/-. In his cross examination he has stated, that the acquired lands of the appellants are situated towards east of Mudhol. He has stated, there is State highway proceeding towards Bilagi which further proceeds to Bijapur – Hubli. He admits that there are no rehabilitation centres on Mantur road and there is no Government Office, Bank or any other office on Mantur road and he cannot state the boundaries of the acquired lands of the appellants and he cannot state the boundaries of his land. He has stated, Mudhol town has grown towards Jamkhandi on northern side and towards

Mahalingapur on western side. He has stated that person who has sold the said site to him is related to the owners of the acquired lands.

55. R.W.1 is Captain Dr. K.Rajendra. He has stated in his evidence that he was working as Special LAO, UKP, Bilagi, since 05-03-2009. Most of his examination in chief pertains to issuance of notification under Secs. 4(1), 6(1), 9(1) and 10 and notice issued to claimants in LAC Nos. 107, 106 and 108 of 2004 under Sec. 12(2) of the Act which were marked through him as exhibits R.1 to R.6 with the consent of the claimants. He has stated that at the time of spot inspection it was found that the sugar cane crop was grown in the acquired lands. He has stated that the statements made by P.Ws. 1 to 8 in their examination in chief are far from truth and documents produced by the claimants are not applicable to the acquired lands. In his cross examination, to the question put to him as to why notification issued for acquiring the land bearing Sy.No. 555/1 is dropped from acquisition, he says that there is canal adjacent to the acquired lands bearing Sy.Nos. 554 and 553. He says that to the north of

Sy.Nos. 555 and 554 there is Mudhol – Bijapur road. He says that he does not know whether Mudhol – Bijapur road is upgraded as State Highway road. He says there is layout towards west of Ghataprabha Left Bank canal. He says as per Ex.P.83 there is KSRTC depot in Sy.No.213. To the question that there are luxurious bungalows existing in Sy.Nos. 554 and 556, he says he does not know. To the question that Mudhol bus stand is situated at a distance of $\frac{1}{2}$ km. from the acquired lands, he says distance is more than $\frac{1}{2}$ km. He further says, some portion of Sy.No.553 comes within the area reserved for residential purpose. It is to be noted that he was not the Land Acquisition Officer at the relevant point of time.

56. R.W.2 is one Sri. Vasant Pune working as Special Land Acquisition Officer, Upper Krishna Project, Bilagi, since 2000. In his evidence he has repeated in verbatim what R.W.1 has stated in his evidence and therefore it is unnecessary to discuss his evidence.

57. Ex.P.12 is the certificate dt. 13-07-04 issued by the Chief Officer of Town Municipal Council, Mudhol,

which shows that the acquired lands are situated within the Municipal limits of Mudhol town.

58. Ex.P.13 is letter dt. 15-10-03 issued by the Assistant Director of Town Planning , Jamkhandi subdivision, Jamkhandi, which shows that in view of the Government Order dt. 09-12-96 declaring the existing Municipal limit area as Local Planning Area, Sy.Nos. 553, 554 and 555 (acquired lands) came to be included within the Local Planning Area.

59. Ex. P.14 is the Outline Development Plan of Mudhol town and Ex.P.83 is the Final Approved Layout Plan of Mudhol town, both issued by the Assistant Director of Town Planning, Jamkhandi, which disclose that the acquired lands are situated beyond the existing developed area which is shown by drawing a line in green colour and within the Local Planning Area which is shown by drawing a line in purple colour.

60. Ex.P.84 is a letter dt. 15-03-05 issued by the Assistant Director of Town Planning, Jamkhandi, which

shows that the acquired lands are situated within the area reserved for residential purpose.

61. From the discussion of the above oral and documentary evidence of the parties, it is clear that the acquired lands of the appellants were agricultural lands as on the date of issuance of 4(1) notification and sugar cane crop was shown to have been grown as stated by the appellants in their claim petitions filed under Sec. 18(1) of the L.A.Act. It is also clear from their evidence that the acquired lands are situated towards east of Mudhol Town and Mudhol town is developed towards north and west. It has developed towards Jamkhandi on the northern side and towards Mahalingapur on the western side. The acquired lands are situated towards the east of Mudhol town and to the north of the acquired lands, there is a road known as 'Galgali road' which is also known as 'Mantur road' and to the west of the acquired lands there is a canal called as Ghataprabha Left Bank Canal running from North to South. The acquired lands are situated towards the south of Galgali road and to the east of Ghataprabha Left Bank Canal. Mudhol town has

developed upto Galgali road on the northern side and upto Ghataprabha Left Bank Canal on the western side of the acquired lands. It is further clear that the acquired lands are surrounded by agricultural land on the east and south. Either in the Outline Development Plan of Mudhol town produced at Ex.P.14 or in the Final Approved Layout Plan produced at Ex.P.83, no access is shown to reach the acquired lands either from the north or from the west on which side Mudhol town has developed, although there is Galgali road on the northern side of the acquired lands.

62. P.W.1 in his cross examination admits that 20 guntas of land in Sy.No.532/1B was sold on 23-01-01 for Rs.46,000/-. So agricultural land measuring 20 guntas was sold for a meager sum of Rs.46,000/-, just two years prior to issuance of 4(1) notification. He further admits, in their claim petitions produced at Exs.P.1 to P.3 sugar cane crop is shown to have been grown. He also admits that claimants have not given application for conversion of their lands prior to issuance of 4(1) notification.

63. P.W.8 in his cross examination admits that the acquired lands of the appellants are situated towards East of Mudhol and Taluk office, sub-Registrar's office, Bank, petrol bunk and college are situated at a distance of 3 kms. He admits that there are no Rehabilitation Centres on Mantur road (Galgali road) and there is no Government office, Bank or any other office on Mantur road. He also says, Mudhol town is grown towards Jamkhandi on Northern side and towards Mahalingapur on Western side.

64. Though there is evidence to show that layouts such as Karnataka Housing Board colony and Bakshi colony are formed in Sy.Nos.174, 560, 469, 213/1 and 213/2 situated towards North-West of the acquired lands, admittedly, they are independent layouts. The layout plan of these layouts have not been produced by the appellants to know whether roads formed in the said layouts would lead to the acquired lands, so that in the event of forming layout in the acquired lands, the cost of development would be reduced to that extent. From this it is clear, the acquired lands are required to be developed independently by spending huge sums and advantages available in the

layouts formed in the adjacent survey numbers cannot be made use of in the event of forming layouts in the acquired lands.

65. The acquired lands being agricultural lands situated in an undeveloped area where huge sum of money has to be spent for conversion of the said land from agricultural into non-agricultural purpose and having no access from the layouts formed in the adjacent survey numbers, huge sum is required to be spent for getting them developed and substantial portion of the land has to be reserved for formation of roads and other civic amenities such as park, construction of hospital, play ground, school, etc. as shown in the approved layout plan and as prescribed under the local laws from time to time. Therefore, deduction of less than 33-1/3% as contended by the learned Counsel for the appellants relying upon the judgment of our High Court and of the Hon'ble Supreme Court is not just and proper in the facts and circumstances of the case.

66. Thus, it is just, reasonable and proper to deduct 50% towards cost of development from the sale price shown in the sale deed produced at Ex.P. *43. After deduction of the said amount, the balance 50% amounting to Rs.13,93,920/- would form the market value of the acquired lands.

Regarding escalation :

67. Since the gap between the date of issuance of 4(1) notification i.e. 25-01-03 and the sale deed Ex. P.*43 i.e. 02-09-02, on the basis of which we have determined the market value of the acquired lands, is only 4 months and 12 days, question of adding any amount towards escalation charges does not arise. Thus, we determine the market value of the acquired lands at Rs.13,93,920/- per acre.

Thus appellants are entitled for compensation of Rs.13,93,920/- per acre with all other statutory benefits as envisaged under Sec. 23 of the L.A. Act.

* Corrected vide
Court order dated
28/01/2015

Accordingly, the appeals are **allowed in part.** Judgment and Award dated 24-08-12 passed in LAC Nos. 107, 106 and 108 of 2004 and LAC No.109 of 2004 by the Court of Senior Civil Judge, Mudhol are modified. Compensation is redetermined at Rs. 13,93,920/-per acre as against Rs.6,75,000/- per acre awarded by the Reference Court with all statutory benefits as envisaged under Section 23 of LA Act with costs.

**SD/-
JUDGE**

**SD/-
JUDGE**

mgn/-Sk/-

ASBJ & PDWJ:
28/01/2015 MFA 25304/2012
c/w MFAs 25303/2012,
25302/2012 AND 25301/2012

ORDER ON I.A.I/14

I.A.I/14 is filed seeking correction to the judgment dated 07/07/2014.

The corrections as sought are only to indicate the correct exhibit numbers as against what has been indicated in the judgment. Since the ultimate conclusion would not stand altered, the corrections as sought for is accepted.

Registry to carry out the corrections as indicated in the table of corrections attached to the application and fresh copies be issued.

I.A.I/14 disposed of accordingly.

Sd/-
JUDGE

Sd/-
JUDGE

kmv