

THE SPECIAL LAND ACQUISITION OFFICER AND ANR. ETC. A

v.

SRI SIDAPPA OMANNA TUMARI AND ORS. ETC.

OCTOBER 27, 1994

[K. RAMASWAMY, S.C. AGRAWAL AND N. VENKATACHALA, JJ.] B

Land Acquisition Act 1894, Ss. 11 (2), (3) and 12—Evidentiary value of award covering lands under same notification—Collector making award for 240 acres @ Rs. 4,000 per acre by agreement with owners—Later making award for remaining 60 acres on basis of market value @ Rs. 4,000 and 4,500 per acre for agricultural and non-agricultural land respectively—Civil Court on reference enhancing compensation to Rs. 60,000 per acre on basis of sale deed of small bit of land and valuation report of retired engineer—Held, Civil Court wrong in ignoring altogether award earlier made by Collector; cannot grant enhanced compensation without first recording finding of inadequacy of award amount—Karnataka Industrial Area Development Act 1966, S. 29 (2).

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Land Acquisition Act 1894, Ss. 11 (2) and 11 (3) —Determination of market value—Acquisition of 300 acres of land for industries—Civil Court on reference enhancing compensation to Rs. 60,000 per acre on basis of market value of small bit of land and valuation report of retired engineer—Held; Court was wrong in determining compensation on basis of sale deed of small extent of land and on expert report based on such sale deed.

300 acres of land in Belgaum were sought to be acquired under S.28 (1) of the Karnataka Industrial Area Development Act, 1966 (the 'KIAD Act') for the purpose of industries. Pursuant to an agreement with the State Government, owners of 240 acres accepted compensation determined at Rs. 4,000 per acre under an award made by the Collector in that behalf. The owners of the remaining 60 acres did not agree to receive the above compensation and it became necessary to take recourse to the provisions of the Land Acquisition Act, 1894 ('Act') for determining the compensation payable to them. The Land Acquisition Officer (LAO) awarded Rs. 4,000 per acre for agricultural land and Rs. 4,500 per acre for non-agricultural land on the basis of market value. The LAO referred to the earlier award in respect of 240 acres and to the price fetched for large extent of similar lands.

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A The Civil Court on a reference sought by the owners of the 60 acres, enhanced the compensation to Rs. 60,000 per acre relying upon a solitary sale deed for a small extent of land and the valuation report of a retired engineer based on the said sale deed. Not satisfied with the reduction by the High Court of the compensation to Rs. 52,000 and Rs. 36,000 per acre for non-agricultural and agricultural lands respectively, the State Government appealed to the Supreme Court.

Allowing the appeal, this Court

C HELD : 1.1. The Civil Court had wholly ignored the settlement reached by the owners of about 240 acres of land which was similar to the 60 acres of acquired lands and formed four-fifth of 300 acres of the acquired lands. When 240 acres of lands acquired, for which Rs. 4,000 per acre was received as compensation by agreement and 60 acres of lands acquired for which Court had to determine compensation were similar, no merit could be found in the argument that these lands should be granted higher compensation. (221-E-F)

E 1.2. The evidentiary value of the award made under S.11 (2) of the Act ought to increase depending on the proportion which the area of the lands covered by the award may be to the total area of the land covered by the notification for acquisition. Such being the evidentiary value of an award made under S.11 (2) of the Act, the Court determining the compensation payable for other acquired lands covered by the same notification cannot ignore altogether from its consideration such award. (216-G-H)

F *Bangaru Narasingha Rao Naidu v. R.D.O., Vizianagaram, [1980] 1 SCC 75 and Krishna Yachandra Bachadurvaru v. Special Land Acquisition Officer, City Improvement Trust Board, Bangalore, [1979] 4 SCC 356, referred to.*

G 1.3. The Court which is required to decide the reference under S.18 of the Act, cannot determine the amount of compensation payable to the claimant exceeding the amount determined in the award of the Collector made under S.11 for the same land, unless it gets over the finality and conclusive evidentiary value attributed to it under S.12, by recording a finding on consideration of relevant material therein that the amount of compensation determined under the award was inadequate for the reasons that weighed with it. (214-G-H)

2.1. The Civil Court was wholly wrong in making the registration copy of that sale deed the basis for determination of the market value of the acquired lands. Moreover, when the extent of the land covered in the sale deed was hardly 3 guntas, the price alleged to have fetched for it could not have formed the basis for determination of the market value of about 60 acres of the acquired land, particularly, when as seen from the award there were sale transactions pertaining to large extents of lands which had come into existence in respect of lands in the vicinity, around the time of acquisition and before, were available but had not been made available to Court. (221-D)

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2.2. Determination of the value of large extent of acquired lands on the basis of the prices fetched by smaller plots must be a matter of last resort and should be adopted when there is no possibility of determining the market value of acquired lands on the basis of comparable transactions of larger extents. (217-F)

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The Collector of Lakhimpur v. Bhuban Chandra Dutta, [1972] 4 SCC 236, referred to.

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2.3. The report of the expert based on the sale deed itself was of no help in determining the value of acquired land. When a report of an expert is got produced by a claimant before the court giving market value of the acquired lands, the court may, choose to act upon such report for determination of the amount of compensation payable for the acquired lands, if the data or the material on the basis of which such report is based is produced before the Court and the authenticity of same is made good and the method of valuation adopted therein is correct. (219-A)

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CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2587-88 of 1994 etc. etc.

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From the Judgment and Order dated 29.3.93 of the Karnataka High Court in M.F.A. No. 954-55 of 1989.

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Civil Appeal Nos. 2589-97 of 1994.

S.S. Javali, Mrs. Kiran Suri, M. Veerappa, Naveen R. Nath, for S.R. Bhat, Girish Nanthamurthy, for P. Mahale and E.C. Vidya Sagar for Gopal Singh for the appearing parties.

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A The Judgment of the Court was delivered by

VENKATACHALA, J. These appeals by special leave preferred by the Land Acquisition Officer of the Karnataka Industrial Areas Development Board and the Karnataka Industrial Areas Development Board are directed against judgments and decrees of the High Court of Karnataka rendered in their appeals filed under section 54 of the Land Acquisition Act, 1894 - "the LA Act". Since the appeals filed in the High Court were directed against the judgments and decrees of the Court of Civil Judge, Belgaum rendered on references made to it under section 18 of the LA Act based on common evidence adduced in them, these appeals could conveniently be disposed of by this common judgment.

C Lands comprised in various survey numbers of Yamunapur, Kakati, Kangrali, B.K., Kanbargi villages of Belgaum Taluka were proposed to be acquired for the purpose of industries under section 28 (1) of the Karnataka Industrial Area Development Act, 1966 - "the KIAD Act" by a notification published in the Karnataka Gazette dated 4.9.1969. The lands proposed to be so acquired were 300 acres and formed a large block. The State Government negotiated with the owners of the said lands for settling the compensation payable to them for their acquired lands. As a result, the owners of 240 acres of lands entered into an agreement with the State Government to receive compensation for their lands at the rate of Rs. 4,000 an acre, as provided for under section 29 (2) of the KIAD Act. Those owners of the lands also received compensation payable for their acquired lands accordingly. Since the owners of remaining 60 acres of lands did not agree with the State Government in the matter of amount of compensation to be received for their lands, the Land Acquisition Officer - "the LAO" had to have recourse to provisions of the LA Act for determining the amount of compensation payable to them for their lands as the KIAD Act required the application of the provisions of the LA Act for the purpose. The LAO who, therefore, issued notices under sections 9 and 10 of the LA Act to such owners, and held an inquiry as to the amount of compensation payable to them for their lands, made an award under section 11 of the LA Act determining compensation payable for such lands. The compensation granted under that award to the owners of 60 acres of lands was based on the market value determined at the rate of Rs. 4,000 an acre for agricultural lands and at the rate of Rs. 4,500 an acre for non-agricultural lands. But, the owners of the said 60 acres of lands, who did not accept the said award, made applications to the LAO under section 18 of the LA Act, and sought the making of references to the Civil Court for determination of the compensation payable for their lands. The Civil Court which received those

references, registered them as land acquisition cases and held an enquiry A thereon. However, since the parties adduced common evidence in that enquiry as regards the market value of the lands of the owners - claimants in those cases, the Civil Court on consideration of such common evidence rendered judgments and decrees in those cases determining the market value of about 60 acres of lands concerned at the rate of Rs. 1,500 per gunta, i.e., Rs. 60,000 an acre. But those judgments and decrees made by B the Civil Court in the said land acquisition cases were appealed against by the LAO and the Karnataka Industrial Areas Development Board - "the Board" by the preferring appeals under section 54 of the LA Act. Thereupon, the High Court by its judgments and decrees made in those appeals reduced the market value of the acquired lands to Rs. 1,300 per gunta, i.e., Rs. 52,000 an acre and Rs. 900 per gunta, i.e., Rs. 36,000 an acre. The LAO and the Board, who were not satisfied with the reduction in the market value of 60 acres of lands made by the High Court by its judgments and decrees rendered in those appeals, have filed the present appeals by special leave seeking the setting aside of the judgments and decrees of the Civil Court as well as of the High Court and dismissal of the land acquisition cases by rejecting the reference made to the Civil Court. C D

Shri S.S. Javali, the learned counsel for the appellants contended that the compensation received by the owners of four-fifth the area of acquired lands (240 acres) pursuant to an agreement entered into with the State Government, as provided for under section 29 (2) of the KIAD Act, when had made the LAO to determine the market value payable to the remaining owners of one-fifth area of the acquired lands by his award made under section 11 of the LA Act, the Civil Court and the High Court had acted illegally in overlooking such award and determining the market value of one-fifth the area of the acquired lands (60 acres) on the basis of the price supposed to have fetched by the sale deed dated 13.3.1969 (Ex. P-3), E relating to sale of small bit of about 3 guntas of land situated away from the acquired lands and on Ex. P-7, the report of the valuation of acquired lands made by a retired engineer, PW-2 based on the price supposed to have been fetched under Ex. P-3. On the other hand, Shri E.C. Vidya Sagar, learned counsel appearing for the respondents in Civil Appeal Nos. 2589-91 of 1994 contended that the acquired lands of the respondent concerned in each of those appeals had since been situated next to the National Highway, they had a very high potential value for building purposes and hence it cannot be said that the High Court was unjustified in determining the compensation of those lands at a rate higher than that determined by the LAO of other lands. G He further contended that in the absence of non-availability of sale deeds relating to larger extents of lands on the basis of which determination of the H

A market value of the respondents, acquired lands could have been made, the High Court was justified in placing reliance on the value supposed to have been fetched by sale of 3 guntas of land under Ex. P-3 and the report of the valuer (Ex.P-7) based on such sale and hence the judgments and decrees of the High Court appealed against do not call for interference by this Court.

B Since the decision in these appeals require our consideration of four important points affecting valuation of land to be made by a court on a reference made to it under Section 18 of the LA Act, those points which need such consideration in the light of the aforesaid contentions urged for the contesting parties in these appeals, would be the following :

C (i) Where a Court is required to determine compensation for a land on a reference made to it under Section 18 of the LA Act at the instance of a claimant who has not accepted the award made under Section 11 of the LA Act, can it determine the amount of compensation payable for the land exceeding the amount of compensation determined as payable for the same land in the award under section 11 of the LA Act, without recording its finding on the inadequacy of the amount of compensation determined in such award on consideration of relevant material therein?

D (ii) Where for certain lands covered by a notification published under section 4 (1) of the LA Act or a corresponding provision in any other Act providing for acquisition, an award is made under Section 11 of that Act as to the amount of compensation payable for such lands to the claimants on the basis of agreement reached between them are the Collector (LAO) under sub-section (2) thereof or a corresponding provision in any other Act providing for payment of the amount of compensation by agreement between the claimants and the Collector or Government, can the amount of compensation payable under the award of the Collector made according to such agreement, be ignored by the Court in determining the amount of compensation payable for other lands covered by the same notification.

E (iii) Where a sale-deed or an agreement to sell relating to a small extent of land is produced by the claimant in the enquiry held for determination of the amount of compensation payable for his land, is the Court bound to

determine the market price of the large extent of acquired land, based on the price fetched or to be fetched by small extent of land covered by such sale-deed or agreement to sell? A

(iv) When report of an expert is got produced by a claimant before a Court giving the market value of the concerned acquired land, is the Court bound to act upon such report in determining the amount of compensation payable for the acquired land? B

Point-(i) :

The amount of compensation payable for land acquired under the LA Act is required to be determined by Court under section 23 at the instance of a claimant, who does not accept the award of Collector made in that regard under section 11. As becomes clear from sub-section (2) of Section 11 of the LA Act, an award as to the amount of compensation payable for the land, could be made by the Collector on the basis of agreement reached in that regard between him and the claimant. However, where no such agreement is reached, the Collector is required to make an award as to the amount of compensation payable for the land as required by sub-section (1) of section 11, being guided by the provisions contained in sections 23 and 24, as envisaged under section 15. The provision in section 12 makes such award of the Collector final and conclusive evidence as between him and the claimant, subject to later provisions. C D E

Since later provision in section 18 entitles a claimant who does not accept the award under section 11 as to the amount of compensation determined thereunder for his land, to raise an objection thereto and to seek reference to the Court for determination of the amount of compensation payable for his land, undoubtedly the Court deciding such reference could determine the amount of compensation payable for land exceeding the amount of compensation determined in the award under section 11. But, the point is, whether it is open to such Court to determine the amount of compensation exceeding the amount of compensation determined in the award without recording a finding on consideration of the relevant material therein, that the amount of compensation determined in the award under Section 11 was inadequate. F G

When the Collector makes the reference to the Court, he is enjoined by section 19 to state the grounds on which he had determined the amount of H

- A compensation if the objection raised as to the acceptance of award of the Collector under section 11 by the claimant was as regards the amount of compensation awarded for the land thereunder. The Collector has to state the grounds on which he had determined the amount of compensation where the objection raised by the claimant in his application for reference under section 18 was as to inadequacy of compensation allowed by the award under section 11, as required by sub-section (2) of Section 18 itself. Therefore, the legislative scheme contained in Sections 12, 18 and 19 while on the one hand entitles the claimant not to accept the award made under section 11 as to the amount of compensation determined as payable for his acquired land and seek a reference to the court for determination of the amount of compensation payable for his land, on the other hand requires him to make good before the Court the objection raised by him as regards the inadequacy of the amount of compensation allowed for his land under the award made under section 11, with a view to enable the Court to determine the amount of compensation exceeding the amount of compensation allowed by the award under Section 11, be it by reference to the improbabilities inherent in the award itself or on the evidence aliunde adduced by him to that effect. That is why, the position of a claimant in a reference before the Court, is considered to be that of the plaintiff in a suit requiring him to discharge the initial burden of proving that the amount of compensation determined in the award under section 11 was inadequate, the same having not been determined on the basis of relevant material and by application of correct principles of valuation, either with reference to the contents of the award itself or with reference to other evidence aliunde adduced before the Court. Therefore, if the initial burden of proving the amount of compensation allowed in the award of the Collector was inadequate, is not discharged, the award of the Collector which is made final and conclusive evidence under section 12, as regards matters contained therein will stand unaffected. But if the claimant succeeds in proving that the amount determined under the award of the Collector was inadequate, the burden of proving the correctness of the award shifts on to the Collector who has to adduce sufficient evidence in that behalf to sustain such award. Hence, the Court which is required to decide the reference made to it under section 18 of the Act, cannot determine the amount of compensation payable to the claimant for his land exceeding the amount determined in the award of the Collector made under section 11 for the same land, unless it gets over the finality and conclusive evidentiary value attributed to it under section 12, by recording a finding on consideration of relevant material therein that the amount of compensation determined under the award was inadequate for the reasons that weighed with it.

Point-(ii) :

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Sub-section (2) of section 11 of the LA Act empowers the Collector to make an award determining the amount of compensation payable to the claimant for the acquired land, if the latter agrees in writing to receive such amount as compensation for such land. Such determination of compensation for a land under sub-section (2) of section 11, it is true, cannot in any way affect the determination of compensation for other lands in the same locality or elsewhere in accordance with the other provisions of the LA Act because of the provision contained in sub-section (3) of section 11 of the LA Act. But, the point which needs consideration here is the evidentiary value which the award of the Collector determining the compensation for certain land on the basis of the agreement reached between him and the claimant under sub-section (2) of section 11 of the LA Act or other corresponding provision in any other Act, should carry in determining the amount of compensation payable for other similar lands acquired pursuant to the same notification published under sub-section (1) of section 4 thereof or other corresponding provision in any Act.

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The best evidence of the market value of the acquired land is afforded by a transaction of sale in respect of the very acquired land provided, of course, there is nothing to doubt the authenticity of such transaction, as is held by this Court in *Bangaru Narasingha Rao Naidu v. R.D.O., Vizianagram*, [1980] 1 SCC 75. The best evidence of market value of the acquired land could equally be afforded by a transaction of agreement to sell relating to the very acquired land, provided, of course, there arises absolutely no room for doubting the authenticity of such transaction. If such transaction of agreement to sell relating to the very acquired land or a portion of it could be the best evidence of the market value of the acquire land, can such evidence furnished by the award made by the Collector under sub-section (2) or similar provisions in any other Act determining the amount of compensation payable to a claimant for a portion of the acquired land as agreed to by him with the Collector be ignored by the Court in determining the market value of the remaining portion of the acquired land, is the point which arises for consideration.

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Where the Collector is required to determine the amount of compensation payable for the acquired land according to the provisions in the LA Act, he is guided in the matter by the provisions in sections 23 and 24 because of the requirement of section 15. But, where it becomes necessary for the Court to determine the amount of compensation for the acquired land according to sections 23 and 24 of the LA Act, it shall take

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- A into consideration first, the market value of the land on the date of publication of the notification under section 4 (1), inasmuch as it is the mandate of sub-section (1) of section 23, which takes note of the fact that the market value of the land is the main component of compensation payable therefor.
- B As held by this Court in *Krishna Yachandra Bachadurvaru v. Special Land Acquisition Officer, City Improvement Trust Board, Bangalore*, [1979] 4 SCC 356 the estimation of market value of the acquired land depends on evaluation of many imponderables. Play of conjecture and guess in the estimation of market value of the acquired land cannot be avoided even though such conjecture or guess has to be founded on the facts and circumstances of each case. But, the market value of the acquired land must be the near estimate of the price which the claimant by voluntarily selling the awarded land would have got from a willing purchaser. What could be regarded as the near estimate of the acquired land has to be ascertained, be it the Collector or be it the Court on the basis of
- C authenticated transactions of sales or agreements to sell relating to the same land or a portion of it wherever possible because such transactions of sale or agreements to sell are always regarded as the best evidence available for the purpose. When lands are notified for acquisition, all the persons interested in any of those lands who are entitled to obtain compensation therefor, taking advantage of the statutory provisions for voluntary settlement of the amount of compensation payable for their lands enter into an agreement with the Collector in that behalf and receive such amount from the Collector as per his award made accordingly under the provisions of the LA Act. Ordinarily, no room for doubting the authenticity or genuineness of the award for compensation made by the Collector on the basis of such agreement can arise. The evidentiary value of such award determining the amount of compensation made under section 11 (2) of the LA Act by the Collector ought to necessarily increase depending on the proportion which the area of the lands covered by the award may bear to the total area of the land covered by the notification for acquisition.
- G Such being the evidentiary value of an award made by the Collector under sub-section (2) of section 11 of the LA Act, as regards the market value of the lands covered by Notification under section 4 (1), the Court determining the compensation payable for other acquired lands covered by the same notification cannot ignore altogether from its consideration such award made under sub-section (2) of section 11.
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Point-(iii) :

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Where the court has to determine the market value of large extents of acquired agricultural lands, it may not be desirable to be guided on the price fetched by sale of small extents of agricultural lands as the possibility of genuine agriculturists buying such small extents for their cultivation purposes is, rather remote and it may not also be desirable to determine the market value of the acquired agricultural lands on the basis of value fetched by sales of small extents agricultural land even if they had been purchased for building purposes, for that would involve the consideration of too many imponderables. However, if sale deed or agreement to sell relating to the small extent of land on the basis of which the market value of the large extent of the agricultural land has to be determined is a portion of the acquired agricultural land itself or other land in its close proximity, it may be made the basis for determining the market value of the acquired large extent of agricultural land out has to be done when there is satisfactory evidence of the absence of sales or agreements to sell of bigger extents of land pertaining to the acquired land or other lands in the vicinity of the acquired land. Even then, the price fetched or to be fetched by such small extents of land has to be made the basis for determining the market value of the larger extents of acquired agricultural lands, all material factors which would reduce the value of the larger extents of acquired land as on the date it was notified for acquisition must necessary be taken into account, for it is well-known as is held by this Court in *the Collector of Lakhimpur v. Bhuban Chandra Dutta*, [1972] 4 SCC 236. that when a large area of land under acquisition is the subject matter, it cannot fetch the price at the rate at which smaller plot or plots are sold. One aspect, which however, should weigh is that determination of the value of large extents of acquired lands on the basis of the prices fetched by smaller plots must be a matter of last resort and should be adopted when there is no possibility of determining the market value of acquired lands on the basis of comparable transactions of larger extents.

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Therefore, where a sale deed or an agreement to sell relating to a small extent of land is produced by the claimant, in the enquiry held for determination of compensation payable for his large extent of land, the Court is not always bound to determine the market price of such large extent of acquired land on the basis of the price fetched or to be fetched by small extent of land covered by such sale deed or agreement to sell.

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A *Point-(iv) :*

It has become a matter of common occurrence with the claimants who seek enhanced compensation for their acquired lands from court to produce the reports of valuation of their lands in court purported to have been prepared by the experts. No doubt, courts can act on such expert evidence

B in determining the market value of the acquired lands, but the court having regard to the fact that experts will have prepared the valuation reports produced in the court and will depose in support of such reports, at the instance of the claimants, must with care and caution examine such reports and evidence given in support thereof. Whenever valuation report made by an expert is produced in court, the opinion on the value of the acquired land given by such expert can be of no assistance in determining the market value of such land, unless such opinion is formed on relevant factual data or material, which is also produced before the court and proved to be genuine and reliable, as any other evidence. Besides, if the method of valuation of acquired land adopted by the expert in his report is found to be not in

D consonance with the recognised methods of valuation of similar lands, then also, the opinion expressed in his report and his evidence, can be of no real assistance to the court in determining the market value of the acquired land. Since the exercise which will have been done by the expert in arriving at the market value of the land in his report on the basis of factual data bearing on such valuation, will be similar to that to be undertaken by the court in

E determining the market value of the acquired land, it can no doubt receive assistance from such report, if it is rightly done and the data on which the report is based is placed before the court and its authenticity is established.

Therefore, when the valuation report of an acquired land is made by an expert on the basis of prices fetched or to be fetched by sale deeds or agreements to sell relating to the very acquired lands or the lands in the vicinity, need arises for the court to examine and be satisfied about the authenticity of such documents and the truth of their contents and the normal circumstances in which they had come into existence and further the correct method adopted in preparation of that report, before acting on such report for determining the market value of the acquired land. The opinion expressed in the report that the author of the report has made the valuation of the acquired lands on the basis of his past experience of valuation of such lands should never weigh with the court in the matter of determination of market value of the acquired lands, for such assertions by themselves cannot be substitutes for evidence on which it ought to be based and the method of valuation adaptable in such report.

Therefore, when a report of an expert is got produced by a claimant before the court giving market value of the acquired lands, the court may choose to act upon such report for determination of the amount of compensation payable for the acquired lands, if the data or the material on the basis of which such report is based is produced before the Court and the authenticity of the same is made good and the method of valuation adopted therein is correct. A

As the points arising for consideration in the facts of the land acquisition cases under appeals having been answered as above, we propose to examine the sustainability of the judgments of the Civil Court and the High Court under challenge before us. B

In all about 300 acres of agricultural and non-agricultural lands required for making industrial plots was proposed for acquisition under section 28 (1) of the KIAD Act by a notification published on 4.9.1969 in the State Gazette. Section 25 (2) of the KIAD Act which provided for settlement on compensation payable for the lands acquired thereunder read thus : C

“Where the amount of compensation has been determined by agreement between the State Government and the persons to be compensated they shall be paid in accordance with such agreement.” D

The claimants, who were the owners of about 240 acres of the acquired lands out of total of about 300 acres of the acquired lands, entered into an agreement with the State Government in the matter of compensation payable for their lands at the rate of Rs. 4,000 per acre and received the same under the award made by the LAO in that behalf. The award, Ex. P-1, of the LAO specifically refers to the fact that the owners of about 240 acres of acquired lands received Rs. 4,000 per acre. It also refers to the fact of some of the owners of remaining about 60 acres of land making a claim for compensation for their lands at the rates of Rs. 12,000 per acre. The LAO, when in the said award determined the market value of the remaining extent of about 60 acres of the acquired land at the rate of Rs. 4,000 per acre for agricultural lands and Rs. 4,500 per acre for non-agricultural lands, it was in consonance with the amount of compensation of Rs. 4,000 per acre voluntarily received by the owners of about 240 acres of similar lands acquired under the same notification and for the same purpose. The award further refers to prices fetched by sale of even large extents of lands and the average price fetched in them as Rs. 4,437 per acre. The only evidence which is produced by the claimants to show that the compensation awarded E

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- A to them for their 60 acres of lands was inadequate is Ex. P-3, the registration copy of the sale deed dated 13.3.1969 wherein about 3300 sq. ft. of land in some survey numbers of Kangrali B.K.Village had been sold as plot No. 49 for Rs. 4,500. The extent of land sold under the said sale deed being about 3 guntas, the rate works out to Rs. 1458 per gunta, i.e. Rs. 58,320 per acre. The report of valuation of the acquired land produced is
- B Ex. P-7. That report is said to be one made by a retired engineer. P.W.2 claimed as expert valuer. The whole report of valuation of the acquired lands was claimed to have been made on the basis of the registration copy of the sale deed Ex.P-3. Therefore, the Civil Court has come to determine the market value of the acquired lands solely on the basis of Ex. P-3 and Ex.P-7 ignoring every other information furnished in the award, Ex.P-1 of
- C the LAO, such as that for similar lands covered by the same acquisition notification, the owners of about 240 acres of land had accepted the compensation from the Government at the rate of Rs. 4,000 per acre by reaching a settlement with the Government and even the claimants themselves who were seeking enhanced compensation for their lands had claimed compensation for their acquired lands at the rate of Rs. 12,000 per acre.
- D Although the Civil Court in its judgments said no sale deed produced by the claimants should be acted upon unless the vendor and the vendee under such sale deed was examined to show its authenticity and circumstances in which it came into existence, it has accepted Ex. P-3, registration copy of a sale deed produced by a claimant as the evidence of price of land in the neighbourhood of the acquired land. It has failed to see that for want of evidence of vendor or vendee under that sale deed Ex. P-3, it was of no assistance in determining the value of the acquired land. So also it has failed to see that Ex. P-7, the report of the expert had since been based on the said sale deed itself, it was of no help in determining the value of acquired lands. Only thing that has been done by the Civil Court is to give deduction of some amount out of Rs. 2,700 per gunta, i.e., Rs. 1,08,000 per acre, which according to it was the amount needed for making roads and drains and for providing amenities in the acquired lands and determining their value at Rs. 1,500 per gunta, i.e., Rs. 60,000 per acre.
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- G As seen from the judgments of the Civil Court we find no mention that the claimants who are the owners of about 60 acres of the acquired lands had not disputed the fact that the owners of about 240 acres of similar other lands acquired under the same notification had accepted Rs. 4,000 per acre as amount of compensation payable for their lands under a voluntary agreement and as to why such agreement could not have been the basis to determine the market value of the acquired lands. In its judgments the Civil Court in finding that the market value determined in the award for about 60
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acres of the acquired land at Rs. 4,000 and Rs. 4,500 per acre in any way A inadequate has not considered all the relevant material on the basis of which market value or the acquired lands was determined by the award. As regards the registration copy of the sale deed, Ex. P-3, dated 13.3.1969, it is merely said that the claimants had produced the same in court. Nowhere there is reference to the evidence of vendor or vendee given in respect of Ex. P-3. How the market price fetched for a smaller extent of 3 guntas of land under Ex. P-3 could have been relied upon is not at all stated by the Court. Even though, Ex. P-3, registration copy of the sale deed was the foundation for the valuation report Ex. P-7, no attempt appears to have been made by PW-2, the retired engineer, who had prepared the report to find out the circumstances in which the sale had come into existence and why the price mentioned therein was paid. If regard is had to all these factors, the Civil Court was wholly wrong in making the registration copy of that sale deed the basis for determination of the market value of the acquired lands. Moreover, when the extent of the land covered in Ex. P-3 was hardly 3 guntas, the price alleged to have fetched for it could not have formed the basis for determination of the market value of about 60 acres of the acquired land, particularly, when as seen from the award there were sale transactions pertaining to large extents of lands which had come into existence in respect of lands in the vicinity, around the time of acquisition and before, were available but had not been made available to court. However, one thing which becomes obvious from the judgments of the Civil Court is that the Civil Court had wholly ignored the settlement reached by the owners of about 240 acres of land which was similar to the 60 acres of acquired lands and formed four-fifth of 300 acres of the acquired lands. When 240 acres of lands acquired, for which Rs. 4,000 per acre was received as compensation by agreement and 60 acres of lands acquired for which court had to determine compensation were similar, no merit could be found in the argument of learned counsel for some of the respondents in the appeals that their lands being closer to highway should be granted higher compensation. B C D E F G H

Thus, there was absolutely no evidence produced by the claimants in the Civil Court on references got made by them which would show that they had produced evidence sufficient to discharge the burden of proof that the award made by the LAO did not give adequate compensation for their acquired lands. In the circumstances the judgments and awards of the Civil Court were wholly unsustainable. However, when the judgments in the Civil Court have been brought us before the High Court at the instance of the present appellants, all that has been done by the High Court in its H

- A judgments is to reduce the rate of compensation given per gunta by stating that the market value of the large extent of land when was determined by the Civil Court on the basis of the price fetched by smaller extent of land deduction given by it for largeness, should have been more. The amount of compensation determined by it payable for the acquired lands is therefore reduced to Rs. 1,300 per gunta and Rs. 900 per gunta, which works out to
- B Rs. 52,000 per acre and Rs. 36,000 per acre respectively. The High Court has also ignored the fact that for similar acquired lands the owners of more than four-fifths of the land had accepted the amount of compensation at the rate determined by the LAO in his award. Therefore, there is no reason to sustain the judgments and decrees of the High Court under appeals.
- C In the facts and circumstances to which we have adverted to, there is no option left to us except to affirm the award of the Land Acquisition Officer.

- D In the result, we allow these appeals, set aside the Judgments of the Civil Court, as well as of the High Court, reject the references made to the Civil Court, leaving the parties to bear their own costs of the proceedings throughout.

S.M.

Appeals allowed.

- E In view of our judgment pronounced today in Civil Appeal Nos. 2587-88 of 1994 etc. - *The Special Land Acquisition Officer and Another etc. v. Sri Sidappa Omanna Tumari and Ors. etc.* the Special Leave Petition is dismissed.

S.M.

Petition dismissed.