REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5616 OF 2004

Radha Mudaliyar ... Appellant

Versus

Spl. Tahsildar (Land ACQ.),
T.N.H. Board ...
Respondent

WITH

CIVIL APPEAL NO.5628 OF 2004

Dhanapooshanam ... Appellant

Versus

Special Tahsildar (L.A.), Chennai & Anr. ...
Respondents

WITH

CIVIL APPEAL NO.5732 OF 2004

N. Thananchayan ... Appellant

Versus

Special Tahsildar (L.A.) Chennai & Anr. ...
Respondents

WITH

CIVIL APPEAL NO.8818 OF 2010
(Arising out of SLP (C) No.9736 of 2004)

K. Gomathi & Ors. ... Appellants

Versus

Special Tahsildar (L.A.), Madras & Anr. ... Respondents

J U D G M E N T

Swatanter Kumar, J.

1. Leave granted in SLP (C) No.9736 of 2004.

2. Application for impleadment in Civil Appeal No.5616 of 2004 is allowed.

3. By this judgment, we will dispose of the three Civil Appeals being Civil Appeal Nos.5616, 5628 and 5732 of 2004 and a Civil Appeal arising out of Special Leave Petition (C) No.9736 of 2004 as they arise from a common judgment with

somewhat similar facts.

FACTS

4. For the purposes of brevity and to avoid repetition, we would be referring to the facts in Civil Appeal No.5616 of 2004. A notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') was issued by the Industries Department of the State of Tamil Nadu on 23.01.1985 to acquire land in the Revenue Estate of village Kadaperi, Hamlet of Tambaram, Tambaram Taluk within the municipal limits of the city including the land admeasuring 7.06 acres belonging to the appellant. This notification came to be issued in furtherance of the scheme, which was sanctioned by the State Industries Promotion Corporation of Tamil Nadu (SIPCOT) on 03.04.1984 and a total of 261.42 acres of land was acquired for setting up the Madras Export Processing Zone (MEPZ). The entire land, including dry and wet lands, was sought to be acquired as a compact block for the project in question. In response to the publication of the notification, the interested persons filed objections in terms of Section 5A of the Act which

were considered by the Land Acquisition Officer (for short, the 'LAO') and declaration under Section 6 of the Act was issued on 23.04.1986. After notice to the interested persons/owners, Award No. 3/86 was made and published by the LAO on 28.11.1986. The LAO awarded compensation at the rate of ` 145/- per cent for an extent of 64 cents and ` 110 for 6.42 acres of another kind of land and also awarded compensation at different rates for the superstructures raised by the appellants on their respective lands. The possession of the land was taken on 03.02.1987. The compensation was received by the appellants under protest on 04.07.1987 and they preferred references under Section 18 of the Act.

According to the appellants, the market price of the land in question was between ` 7,000/- and ` 8,000/- per cent in the years 1983-84. In 1985-86 the land was sold at the rate of ` 45,000/- to ` 50,000/- per ground. In this appeal, the appellants had claimed compensation at that rate. They also stated that they had raised nearly 160 coconut trees and dug a big well fitted with electric motor by incurring a cost of ` 1.5 lakh on the land in question. We may notice that various

appellants had raised different claims on these grounds. The Collector, as already noticed, had awarded compensation uniformly at the rates mentioned supra while awarding compensation separately for the well, trees, etc.

5. The parties led evidence before the Reference Court and the Reference Court, vide its judgment dated 09.12.1988, enhanced the compensation payable to the claimants to `3,600/- per cent as agricultural land by relying upon Exhibits A1, A4 and A5. The Reference Court granted the following relief to the claimants:

> "1) The valuation fixed by the lands acquired at Rs.110/- and Rs.145/- per cent, by the Land Acquisition Officer has been raised and a fresh valuation at Rs.3,600/- per cent is fixed for the entire area of the acquired lands;
>
> 2) The valuation at Rs.2,675/- per coconut tree, fixed by the Land Acquisition Tahsildar is held to be correct and confirmed;
>
> 3) The valuation for the well and the pump-set made by the Land Acquisition Tahsildar at Rs.44,487/- has been enhanced to Rs.1,76,862/- and fixed accordingly;
>
> 4) Further it is ordered that the claimant should be paid 30% solatium for the above amounts and interest at the rate of 12% from 23.1.1985 to 28.11.1986 and further 9% interest from 3.2.1987 to

2.2.1988. It is ordered that the sum of Rs.1,88,887.85 fixed as compensation by the Land Acquisition Tahsildar for the land, trees, well and pump-set should be deducted from the above amount. It is further ordered that the claimant is entitled to the interest at the rate of 15% per annum for the difference amount of compensation from 3.2.1988 till date of deposit of the compensation into Court."

6. Aggrieved by the said judgment of the Reference Court, the Government, through the LAO, filed an appeal before the High Court challenging the correctness of the same. The High Court, vide its judgment dated 05.02.2001, declined to accept the reasoning recorded by the Reference Court in its different judgments under appeal and reduced the compensation payable to the claimants at the rate of ` 2018/- per cent. Thus, the High Court, while partially accepting the appeal of the State, granted the following relief:

"Therefore, considering the fact the lands under acquisition are not developed at all, whereas, under adjoining lands are developed, deduction at the rate of 40% for prescribing the correct value by the learned Judge cannot be held to be erroneous. Therefore, we are of the considered view that the market value of the acquired lands can be determined by adopting the value as per Ex.A4, i.e. Rs.3,363/-, and after a deduction of 40% towards development charges, the market value will be Rs.2,018/- per cent. The claimant is entitled to compensation for the 7.06

acres of acquired lands at this rate, i.e., 14,24,708/-."

7. Before discussing the merits in these appeals, it needs to be noticed that different sale instances were produced as exhibits in different references. As far as the question of enhancing the compensation awarded to the claimants on account of trees, well and other improvements on the land in question is concerned, we may notice that it is apparent from the record of the case as well as the arguments addressed before this Court that the correctness of the compensation awarded by the Reference Court was hardly questioned before the High Court and even before this Court. As there is no serious challenge to the quantum of compensation awarded on this account, we do not propose to discuss this issue any further. Thus, only two issues have been raised before us, namely: (a) that the High Court has not appreciated the evidence on record in its correct perspective. The High Court has applied deduction of 40% which, in the facts and circumstances of the case, is not called for. This has resulted in serious prejudice to the interest of the claimants and they have not been awarded the fair market value of their acquired

lands; and (b) they have not been awarded solatium and interest in accordance with law.

DISCUSSION ON MERITS

8. In Civil Appeal No.5616 of 2004, the claimant is the owner of land admeasuring 7.06 acres in a compact square shape falling in Survey Nos.16 and 24/1 in the Revenue Estate of Kadaperi village. Exhibits A1, A4 and A5 are the sale instances from the same village which had been produced by the claimant in support of her claim. Exhibits A2 and A3 are the valuation reports in relation to the well and the pump on the acquired land. Exhibit A6 is the photo copy of Kadaperi village map. Exhibits A1, A4 and A5 are dated 7th November 1984, 12th March 1984 and 15th June 1984 respectively. The Reference Court appears to have firstly relied upon Exhibit A5 and while assuming that value of the land under this exhibit was ` 6,000/- per cent then proceeded to apply 40% deduction on account of road facilities and the fact that these were the sale instances relating to plots and resultantly awarded ` 3,600/- per cent as the compensation payable to the

claimants. Reference was also made to Exhibit A4 where the land had been sold at the rate of ` 4,545/- per cent. The Court noticed that value of the land had been increasing in the area day-by- day and various facilities such as school, college, hospital and banks were available quite near the acquired land and even a Railway Station was located within a distance of one kilometer. While taking Exhibit A4 as the basis, the Reference Court erred in adding 40% increase to the reflected value in the sale deed. The error is due to the reasons that actual sale consideration of Exhibit A4 was ` 3363 per cent and the intervening period between the date of the sale deed and issuance of notification under Section 4 was not two years as noticed by that Court. Though the compensation was determined primarily on the basis of Exhibit A4, the learned Reference Court noticed that the land in Exhibit A5 had been sold at the rate of Rs.6,000/- per cent under that document. This impression of the Reference Court is not supported by any evidence on record as under Exhibit A5 the land was, in fact, sold at the rate of ` 2,180/- per cent on 15.06.1984. However, the learned Reference Court computed somewhat

similar compensation with reference to the two Exhibits A4 and A5. It may be noticed that Exhibit A4 is three months prior to the date of execution of Exhibit A5.

9. In Civil Appeal arising out of SLP (C) No. 9736 of 2004, the Tahsildar vide Award No.5 of 1986 dated 29.11.1986 had fixed the compensation at ` 145.85 per cent on the basis of Exhibits A2 and A3 respectively. These documents, as well as Exhibit A4 were considered to be inadmissible by the Reference Court in its order dated 18.11.1990 and rejected as they were neither the original sale deeds nor copies of registered documents. The rejection thereof is not questioned in the present appeals. The Court had primarily relied upon Exhibit A1 and awarded the compensation. The High Court, while adopting the reasoning given in its judgment in Civil Appeal No. 5616 of 2004, reduced the compensation relying upon Exhibit A4 in that case and after making 40% deduction awarded the compensation.

10. In the backdrop of the above factual matrix and the judgments of the Courts under appeal, this Court *imprimus*

has to examine as to what would be the just and fair market value of the land on the basis of which the compensation payable to the claimants should be determined in terms of Section 23 of the Act. It is a well settled principle of law that comparable sale instances, subject to their satisfying the basic ingredients of law, are the best piece of evidence to be considered by the Court for the purpose of determining the compensation. Even awards and transactions of the adjacent areas have been treated as best evidence which will fall within the zone of consideration by the Court. Of course, such instances must be comparable and legally admissible in evidence. In this aspect, we may refer to the judgments of this Court in the case of *Harcharan v. State of Haryana,* [(1982) 3 SCC 408]; *Kantaben Manibhai Amin* vs. *Special Land Acquisition Officer, Baroda*, [(1989) 4 SCC 662] and *ONGC Ltd.* vs. *Sendhabhai Vastram Patel,* [(2005) 6 SCC 454]. Comparable sale instances are the safest method for determining the market value of the acquired land and as laid down in *Shaji Kuriakose* vs. *Indian Oil Corporation,* [(2001) 7 SCC 650], it should satisfy the factors, inter alia, (1) the sale

must be genuine transaction; (2) the sale deed must have been executed at the time proximate to the date of issuance of notification under Section 4 of the Act; (3) the land covered by the sale must be in vicinity of the acquired land; (4) the land covered by the sale must be similar to the acquired land; and (5) size of the plot of the land covered by the sale be comparable to the acquired land. The sale instances should preferably be closest to the date of the notification as then alone it would satisfy the touchstone of the principles contemplated under Section 23 of the Act, as held in *Kanwar Singh* vs. *Union of India,* [(1998) 8 SCC 136].

11. In Civil Appeal No.5616 of 2004, three sale instances were produced and proved by the claimants on the record of the Reference Court. These are Exhibit A1, A4 and A5 and their details are as follows :

EXHIBIT	DATE OF SALE DEED	AREA SOLD	TOTAL SALE CONSIDERATION	VALUE PER CENT
A1	07.11.1984	5 Cents	` 20,000	` 4,000/-
A5	15.06.1984	4.13 Cents	` 9,000	` 2,180/-
A4	12.03.1984	5.5 Cents	` 18,500	` 3,363/-

It needs to be noticed that all these lands are located in the Revenue Estate of the same village from where the land has been acquired. The land, subject matter of Exhibit A4 is located in Survey No.165 and, as apparent from the above table, admeasuring approximately 5.5 cents was sold for a sum of `18,500/- and the rate comes to ` 3,363/- per cent. However, it is in evidence that when this document was presented for registration, the concerned Registrar made an endorsement raising an objection with regard to the sale consideration declared in the sale deed. According to the Registrar, Mark A5 was the endorsement vide which the parties were directed to pay stamp duty taking the value of the land in question to be ` 25,000/-. The total sale consideration being ` 25,000/-, the rate of the land would come to ` 4,545/- per cent. This document was registered as per endorsement on record on 15.6.1984 while the date of the presentation and execution of the sale deed was 12.3.1984. We would not like to go into the question whether as per Exhibit A4 the sale consideration should be ` 18,500/- or it should be ` 25,000/-. The question as to what is the effect of

enhancement of the sale consideration by the Registrar for the purpose of payment of stamp duty, on the market value of the acquired land while determining the compensation payable to the claimants, need not be examined by us. In this case, the same is specifically kept open. For the purposes of the present case, we would take the value of the land at the rate of ` 3,363 per cent.

Exhibits A1 and A5 again are the sale instances from the same Revenue Estate and are quite close to the date of notification under Section 4, Exhibit A1 is dated 7.11.1984 while Exhibit A5 is dated 15.6.1984. None of the parties to the proceedings have questioned the genuineness, legality or otherwise of these documents and, in fact, as it appears from the record before us there is hardly any objection regarding their admissibility or being read in evidence.

12. Now, let us examine whether Exhibits A1, A4 and A5 satisfy the above stated tests. They were admitted in evidence in accordance with law as they are genuine transactions and are the closest sale instances to the date of the notification as available on record and the land, subject matter of the

transaction, is quite similar to the acquired land and, in fact, it is from the same village. Of course, the area, stated in these sale instances, is comparatively much smaller in size than the acquired land. The sale deed is dated 12.03.1984 while the notification under Section 4 was issued on 23.01.1985. Thus, there is a difference of nearly ten months between these two dates. The claimants would be entitled to the benefit of increase for this intervening period. Annual increase of 10% to 15% is normally allowed by the court where the record reflects increasing trend in the sale price of the land. This principle is often applied by this Court while determining compensation. Reference can be made to the judgments of this Court in *ONGC Ltd.* vs. *Rameshbhai Jivanbhai Patel* [(2008) 14 SCC 745] and *Sardar Jogendra Singh (dead) by LRs.* vs. *State of Uttar Pradesh* [(2008) 17 SCC 133]. We have opted to apply the minimum increase possible because of the short intervening period between the execution of the sale deed and issuance of notification under Section 4. Consequence of the above addition would be that the value of the land in terms of Exhibit A4 as on the date of the notification under Section 4

would be ` 3,699/- per cent rounded off to ` 3,700/- per cent which, when reasonable deduction is applied, would give more or less the same rate of compensation as computed by us on the basis of Exhibit A1.

13. Now, the next question that arises is whether the claimants would be entitled to receive the compensation at this rate or certain element of deduction needs to be applied in the facts and circumstances of the case. The deduction can be applied for different aspects while determining compensation. If the size of the plot is very small and the same has to be taken into consideration for non-availability of other evidence and where the land acquired is a large chunk of land, then it would be advisable to apply some deduction on that score. Reference in this regard may be made to *Land Acquisition Officer* vs. *Nookala Rajamallu* [(2003) 12 SCC 334]. In alternative or in addition thereto, deduction can also be applied on account of wastage of land and development charges. In the present case, the land has been acquired, which apparently was an agricultural land at the time of acquisition, to carry out the development scheme for the MEPZ

sanctioned by the SIPCOT. The development purpose, being in public interest, is bound to result in utilization of part of the land for the purposes of roads, by-links, water & electricity lines and other infrastructural amenities of the project. This Court, depending on the facts and circumstances of the case, has taken the view that deduction on account of expenses of development of the sites could vary from 20% to 70% depending on the nature of the land, its situation, the purpose and stage of development as held by this Court in the case of *K.S. Shivadevamma* vs. *Assistant Commissioner and Land Acqusition Officer* [(1996) 2 SCC 62], *Ram Piari* vs. *Land Acquisition Collector, Solan* [(1996) 8 SCC 338], *Chimanlal Hargovindas* vs. *Special Land Acquisition Officer, Poona* [(1988) 3 SCC 751], *Hasanali Walimchand (Dead) by Lrs.* vs. *State of Maharashtra* [(1998) 2 SCC 388[. In *K.S. Shivadevamma* (supra), this Court held as under:

> "10. It is then contended that 53% is not automatic but depends upon the nature of the development and the stage of development. We are inclined to agree with the learned counsel that the extent of deduction depends upon development need in each case. Under the Building Rules 53% of land is required to be left out. This Court has laid as a general rule that for

> laying the roads and other amenities 33-1/3% is required to be deducted. Where the development has already taken place, appropriate deduction needs to be made. In this case, we do not find any development had taken place as on that date. When we are determining compensation under Section 23(1), as on the date of notification under Section 4(1), we have to consider the situation of the land development, if already made, and other relevant facts as on that date. No doubt, the land possessed potential value, but no development had taken place as on the date, In view of the obligation on the part of the owner to hand over the land to the City Improvement Trust for roads and for other amenities and his requirement to expend money for laying the roads, water supply mains, electricity etc., the deduction of 53% and further deduction towards development charges @ 33-1/3%, ordered by the High Court, was not illegal."

The above view was reiterated in the case of *Nookala Rajamallu* (supra).

14. On similar lines, this Court in the case of *V. Hanumantha Reddy (Deceased) by Lrs.* vs. *Land Acquisition Officer & Mandal R. Officer* [(2003) 12 SCC 642], while considering that the acquired land was adjacent to developed land, held that neither its high potentiality nor its proximity to a developed land can be a ground for not deducting the development charges and that normally 1/3rd deduction could be allowed.

15. We may also notice that the Courts would have to apply some guess work while determining such a question inasmuch as it is not always possible to determine the quantum of compensation with exactitude or arithmetical accuracy. Of course, this permissible guess work has to be used with great caution and within the determinants of law declared by this Court from time to time. This Court in the case of *Charan Dass (Dead) by Lrs.* vs. *H.P. Housing and Urban Development Authority,* [2009 (12) SCALE 293] held as under:

> "10. Section 15 of the Act mandates that in determining the amount of compensation, the Collector shall be guided by the provisions contained in Sections 23 and 24 of the Act. Section 23 provides that in determining the amount of compensation to be awarded for the land acquired under the Act, the Court shall, inter alia, take into consideration the market value of the land at the date of the publication of the Notification under Section 4 of the Act. The Section contains the list of positive factors and Section 24 has a list of negatives, vis-a-vis the land under acquisition, to be taken into consideration while determining the amount of compensation. As already noted, the first step being the determination of the market value of the land on the date of publication of Notification under Sub-section (1) of Section 4 of the Act. One of the principles for determination of the market value of the acquired land would be the price that a willing purchaser would be willing to pay if it is sold in the open market at the time of issue of Notification under

Section 4 of the Act. But finding direct evidence in this behalf is not an easy task and, therefore, the Court has to take recourse to other known methods for arriving at the market value of the land acquired. One of the preferred and well accepted methods adopted for ascertaining the market value of the land in acquisition cases is the sale transactions on or about the date of issue of Notification under Section 4 of the Act. But here again finding a transaction of sale on or a few days before the said Notification is not an easy exercise. In the absence of such evidence contemporaneous transactions in respect of the lands, which have similar advantages and disadvantages is considered as a good piece of evidence for determining the market value of the acquired land. It needs little emphasis that the contemporaneous transactions or the comparable sales have to be in respect of lands which are contiguous to the acquired land and are similar in nature and potentiality. Again, in the absence of sale deeds, the judgments and awards passed in respect of acquisition of lands, made in the same village and/or neighbouring villages can be accepted as valid piece of evidence and provide a sound basis to work out the market value of the land after suitable adjustments with regard to positive and negative factors enumerated in Sections 23 and 24 of the Act. **Undoubtedly, an element of some guess work is involved in the entire exercise, yet the authority charged with the duty to award compensation is bound to make an estimate judged by an objective standard."**

(emphasis supplied)

16. Despite the fact that both the Reference Court as well

as the High Court have relied upon Exhibit A4 or A5 or both of them, still they have arrived at drastically different rates of compensation payable to the claimants. While the High Court took the value of Exhibit A4 as ` 3,363/- per cent, without adding any element of increase for the intervening period, it applied deduction at the rate of 40% and awarded compensation at the rate of ` 2,018/- per cent. On the other hand the Reference Court took the total sale consideration of Exhibit A4 as ` 25,000/- in place of ` 18,500/- and applied 40% increase while awarding compensation to the claimants. Of course, the Reference Court also applied 40% deduction on account of development charges and taking the gross value at the rate of ` 6,000/- per cent awarded compensation at the rate of `3,600/- per cent.

In our considered view, both the Reference Court as well as the High Court have fallen in error of law in computing the compensation payable to the claimants. On the one hand, the High Court ignored an important aspect of the case in not awarding enhancement in the value of the land as it had come in evidence that there was increasing trend in the sale price of

the land in that area. The documentary evidence of Exhibits A1 and A4 also shows the increasing trend. On the other hand, the Reference Court fell in error in giving 40% increase for a short intervening period of ten months. Both the High Court as well as the Reference Court had applied the deduction at the rate of 40% but still awarded compensation at antipodal rates.

Another reason which we must notice and, in fact, it is not clear to us either from the judgment of the High Court or that of the Reference Court as to why Exhibit A1 has not been taken into consideration by both the Courts. In our view, Exhibit A1 is the sale instance from the Revenue Estate of the same village and is located close to the developed area. The sale deed was executed only three months prior to the date of notification under Section 4 of the Act and also reflected a reasonable value where the land was sold at the rate of ` 4,000/- per cent while as per Exhibit A4, the land was sold at the rate of ` 3,363/- on 12.3.1984, thus, indicating increasing trend in the value of the land. If appropriate increase is given on the basis of Exhibit A4 for the intervening period and

deduction at a reasonable rate less than 40% is applied, it will approximately give the same rate of compensation as would be computed with reference to Exhibit A1.

Now, let us examine the exact compensation payable to the claimants with reference to Exhibit A1. Genuineness of Exhibit A1 has neither been questioned nor held to be a transaction which was executed only to enhance the value of the acquired land. Exhibit A1 is a comparable piece of evidence which can safely be relied upon by the Court while determining the compensation in regard to the acquired land. Learned counsel for the claimants, while relying upon the judgment of this Court in *Kasturi & Ors.* vs. *State of Haryana* [(2003) 1 SCC 354], contended that the acquired land has great potential and is located adjacent to the developed land and as such the deduction should not be more than 20% on these counts. However, learned counsel appearing for the respondents relied upon the other judgments already referred by us supra that the deduction should not be less than 40%. Having examined the facts and circumstances of the case and the evidence on record, we are of the considered view that rule

of approximately 1/3rd deduction can be fairly applied to the present case. The land certainly has potential and even the sale instances show that the land from the Revenue Estate of the same village was sold as plots and a number of facilities, as indicated above, were available in the vicinity. Examining the cumulative effect of the evidence on record in relation to location, potential and similarity of land, we consider it appropriate that deduction of more than 30% would be prejudicial to the interest of the claimants whose lands have been acquired by the State in exercise of its power of eminent domain. It is a compulsory acquisition and it is expected of the State to be just and fair and award the compensation to the claimants which satisfies mandate of law contained in the provisions of Section 23 of the Act. Therefore, applying 30% deduction to the value indicated in Exhibit A1 (deduction being made both on account of size of the plot and development charges), the claimants would be entitled to receive compensation at the rate of ` 2,800/- per cent for the acquired land. As in the other appeals, the High Court had only relied upon its judgment which is impugned in Civil

Appeal No.5616 of 2004, therefore, it is not necessary for us to discuss the evidence in those cases in any further detail. The claimants in all these appeals would be entitled to the same rate of compensation.

17. The argument of the appellants is that they have been denied solatium and interest by the High Court while referring to the judgment of this Court in *Prem Nath Kapur v. National Fertilizers Corporation of India Ltd.* [(1996) 2 SCC 71]. It is contended that in view of the law clearly stated by this Court in the case of *Sunder v. Union of India* [(2001) 7 SCC 211], which has been consistently followed by different Benches of this Court, the claimants are entitled to solatium as well as the interest on the awarded amount. We find merit in this contention.

18. The Constitution Bench of this Court in the case of *Sunder* (supra) had clearly stated that the Court has to keep in mind that the compulsory nature of acquisition is to be distinguished from voluntary sale or transfer. In the latter, there is a willing buyer and seller. In the case of acquisition, it is compulsory and deprives the owner of an opportunity to

negotiate and bargain the sale price of its land as it will entirely depend on what the Collector or the court determines as the amount of compensation in accordance with the provisions of the Act. The solatium envisaged in sub-section (2) of Section 23 is "in consideration of the compulsory nature of acquisition". Thus, the solatium is not the same as damages on account of the landowner's disinclination to part with the land acquired. If such compensation as determined in terms of Section 23 of the Act is not paid within one year from the date of taking possession of the land, then in terms of proviso to Section 34 interest shall stand escalated to 15% per annum from the date of the expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry. The Court further held that it is inconceivable that the solatium amount would attract only the escalated rate of interest from the expiry of one year and that there would be no interest on solatium during the preceding period. Hence the person entitled to the compensation awarded is also entitled to get interest on the aggregate amount including solatium. It

appears from the impugned judgment that the High Court had relied upon the judgment of this Court in the case of *Prem Nath Kapur* (supra) and the judgment of this Court in the case of *Sunder* (supra) came to be pronounced after the judgment of the High Court. While relying upon the law existing at that time, the High Court had declined to grant the interest on solatium but made it subject to the pronouncement in the case of *Kapur Chand Jain* vs. *State of Himanchal Pradesh* [(1999) 2 SCC 89], wherein this Court subsequently made a reference to a larger Bench and the judgment in *Sunder* (supra) came to be pronounced. In any case there can be no doubt in law that the claimants are entitled to the solatium and the interest thereupon at the rate specified in proviso to Section 34 of the Act for the relevant period. Even in this regard the judgment of the High Court, therefore, cannot be sustained.

19. For the reasons aforestated we partially allow the appeals of the appellants that the claimants/appellants would be entitled to receive compensation at the rate of ` 2,800/- per cent for the acquired land and the consequential benefits of

Section 23(1)A. The claimants would also be entitled to get interest on solatium according to proviso to Section 34B of the Act. As already noted, the claimants have not pressed for any enhancement for the superstructures namely well, trees, etc. which, in any case, is hereby rejected.

20. In the facts and circumstances of the cases parties are left to bear their own costs.

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.....J.
[Dr. Mukundakam Sharma]

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.....J.
[Swatanter Kumar]

New Delhi,

October 8, 2010.