

DECREET

In the court of the P-1. Subordinate Judge, R.R. Dist.

Present: Sri S. Jagannatham, B.Com., LL.B.,  
Prl. Sub Judge

Dated this the 14th day of November, '88

O.S. 68/87

Between:

Chandubai w/o late Venkat narsimharao hindu aged about 66yrs.,  
Occ; household and agri., r/o Mallapur village, Hyd. East Tq.,  
Hyderabad Dist.,

petitioner/claimant

and

Special Dy. Collector, L.A. (Ind) Hyderabad near  
Mozamjahi market, Hyderabad.,

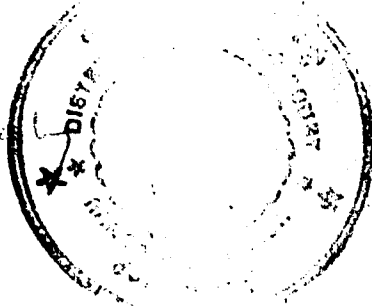
respondent

Petition filed U/s 18 of Land Acquisition Act in respect  
of land Ac. 6-01 gts. in Sy. No. 2/1, 4/1, 82/1, 177/1 and 182  
situated at Mallapur village, Rangareddy District which has  
been acquired by the Industrial Department for the purpose  
of Industrial Development.

Petition filed on: 20.3.87 petition numbered on: 20.3.87  
reference received on 13.5.87

This petition coming on 7.11.88 before me for ~~20.3.87~~ hearing

correc.,



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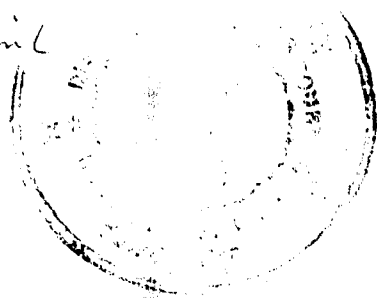


/2/

in the presence of sri Vithalreddy, advocate on behalf of the petitioner and of sri Mohanrao, govt. pleader on behalf of the respondent and the matter having stood over for consideration till this day, the court doth order and decree that the respondent/referring officer do pay to the petitioner/claimant as per the amount passed by this court is as follows:-

1. That the claimant is entitled to the market value at the rate of Rs.8/- per sq.yard to the acquired land.
2. That the claimant is entitled to 30% solatium on the market value fixed by this court.
3. That the claimant is also entitled to the additional amount of Rs.12% p.a. from the date of notification i.e. ~~27.5.68~~ 27.5.68 till the date of award 2.8.76.
4. That the claimant is also entitled to interest @ Rs.9% p.a. from the date of possession i.e. 24.8.67 till the expiry of one year and thereafter @ 15% p.a. till the date of realisation.
5. That the respondent do pay a sum of Rs.2,022/- to the claimant towards proportionate costs of the claim petition.

correc., ml



/3/



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6. The Govt. petitioner is entitled to fees as per rules.

7. The time for deposit is 3 months from today.

Given under my hand and the seal of the court on this the 24th day of November, '88.

sd/-  
Prl. Subjudge,  
R.R. Dist.

Memo of costs

	for petitioner/claimant	Respondent
stamp on petition	-	
ad power	2/-	
advocate fee	2000/-	
preparation of exhibits	20/-	
	-----	
	Total Rs. 2022/-.	

sd/-  
Prl. Sub-judge,  
R.R. Dt.

certified to be true copy

copying *C. J. Datta*  
9/2/89

tb AMM  
rb  
cb  
co. rec., etc



In the court of the Principal Subordinate Judge: R.A. Dist.

Present: Sri S. Jagannadham, B.Com., LL.B.,  
Principal Subordinate, Judge:

Dated this the 24th day of November, 1988

O.P. 58/87

between:

smt. Chandu Bai.

..Petitioner/claimant

Vs

Special Dy, Collector, L.A. (Ind)

Hyderabad.

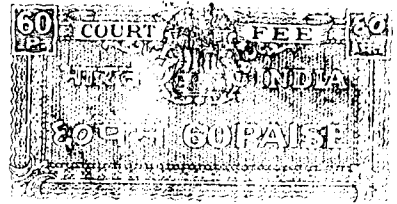
..Respondent

This petition coming on 7-11-1988 before me for hearing in the presence of Sri Vithal reddy, Advocate on behalf of the petitioner and of Sri Mohan Rao, Govt. Pleader on behalf of the respondent, and the matter having stood over for consideration

till this day, the court delivered the following:-

correction done by

cont. 2



- 2 -

### J u d g m e n t

This reference has been made by Special Deputy Collector (L.A) under section 18 of Land Acquisition Act.

2. The brief facts of the reference are that the Government have acquired 6 acres 01 gunta of land out of S.Nos . 2/1,4,/1, 82/1, 177/1 and 182 situate at Mallapur village in R.R.District belonging to the claimant (PW1) for the purpose of industrial development. The draft notification u/s 4(1) of the Land Acquisition Act was published in the official gazette on 27-5-1968 . The claimant claimed before the LAO at the rate of Rs. 15/- per Sq. yd. but the LAO has awarded a sum of Rs. 5/- per square yard — vide his award dt. 2-3 -1976 and possession of the ~~land~~<sup>land</sup> was taken over by the government on 24-8-1967. The claimant received the award amount under protest and aggrieved

corrections. *There are*

cont. 3



- 3 -

by the award filed the award amount under protest and aggrieved by the award filed a reference petition u/s 18 of the Land Acquisition Act to refer the matter to a Civil Court of Law for fixation of just and reasonable compensation. That is how the matter has come up before this court for consideration.

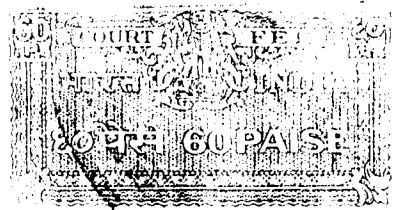
3 The government have filed counter stating that the development of the area had taken place long after the acquisition of the lands and prior to that there was no value for the acquired land, that the market value fixed by the LAO is in accordance with the then prevailing market rate, that claimant is not entitled to 12% additional amount and therefore the claim of the claimant be rejected by confirming the award passed by the LAO.

4x. The points that arise for consideration are:

1. At what rate the compensation is payable to the acquired lands?

corrections.

cont. 4



- 4 -

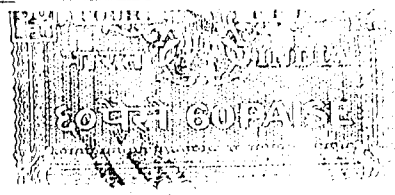
3. To what relief?

5. On behalf of the claimant PWs. 1 to 3 were examined and Exs. A1 to A4 were marked. On behalf of the respondent RW1 was examined and Ex. B1 was marked.

6. Point No. 1:

PW-1 has stated that at the time of acquisition of his lands the population of Mallepur village was three thousand and the entire village was having agricultural lands of 1800 acres and out of which 1000<sup>0</sup>ds. belong to the government. He further stated that besides the government land, some 300 to 400 <sup>0</sup> acres of land was acquired from private persons for the purpose of N.F.C., ECIL., HCF and BHEL etc. According to him after the ~~acquisition~~ acquisition of the lands for the said purposes only small extent of agricultural land was left over in which paddy, vegetables etc. are corrections. *None*

cont. 5



- 5 -

being grown. He says that S.Nos. 183 and 176 which belong to him are adjacent to the acquired land and they are being cultivated by him. According to him, there are no sale-transactions in their village as there were small holdings and also because the major portion of the has been acquired by the government. He says that Meerpet, Nacharam, and Malkajgiri are adjacent to Mallapur village and he has filed two sale-deeds pertaining to Meerpet village which according to him is at a distance of half-a-kilometer from his village Mallapur. He stated that on B. Balama<sup>n</sup>i sold 300 sq. yds for a sum of Rs . 2,000/- to one Manemma through registered sale deed dt. 21-7-1966 our of S.No. 17. Ex. A1 is the certified copy of the said sale-deed. He also says that

Corrections. *Manemma*

cont. 6





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that one B. Mettayya sold 300 sq. Yds. for Rs. 2,000/- out of S.No. 7 situate at Meerpet to one Napska Veerayya through Registered sale-deed dt. 11-8-1966. Ex. A2 is the certified copy of the said sale-deed. The claimant has also filed village map (blue print) of Mallapur, which is marked as Ex. A3 which shows that location of acquired land and Meerpet village. PW1 claims that the entire village land was made into plots and houses were built and the land adjoining his acquired land his being sold at rate of Rs. 180 to 100 /- per sq yard. He prays for compensation at the rate of 150 per sq. yd. along with all statutory benefits that are available under the amended act of Act of 1984. He denied the suggestion that the lands covered by A1 and A2 stand on a better footing and they

correcti<sup>ons</sup>

cont. 7



- 7 -

fetch more potential value than the acquired lands.

He also denied the suggestion that the lands covered by Ex. A1 and A2 are far away from the acquired lands.

PW2 Chandrayya has stated that he attested the sale-deed dt. 31-7-1966 under which one Manamma purchased 300sq. yds. situate at Meerpet village from one Salamani for a consideration of Rs. 2,000/-. He says that the purchaser paid the consideration amount of the vendor and took delivery of possession of the land. From the evidence of PW.2 it is clear that the claimant has proved Ex. A1 as required under law. PW.3, R. Veerayya has stated that he purchased 300sq.yds. in S.No. 7 situate at Meerpet village from one Budda Mekaiah for a consideration of Rs. 2,000/- through registered sale-deed

corrections.

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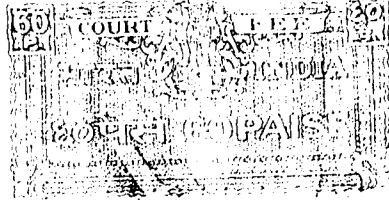
60/11/1966  
RECEIVED  
11/8/66

- 8 -

dt. 11-8-1966 and Ex. A2 is the certified copy of the sale-deed. There is nothing to show that the land covered by Ex. A1 & A2 and the acquired land is not similar in nature and potentiality. Therefore there is no reason as to why the value mentioned in Ex. A1 & A2 cannot be taken into consideration. The claimant claims at the rate of Rs. 15/- per sq.yd. but the sale-deeds Exs. A1 and A2 filed by the claimant show that each square yard was sold at the rate of Rs. 6.60 ps. Ex. A1 is dt. 21-7-66 where as Ex. A2 ~~xxxxxx~~ dt. 11-8-1966. The draft notification in respect of acquired lands was published on 27-5-1968. It is contended by the learned counsel for the claimant that as many industries have come up in the village within a short period, there was escalation of prices in many folds and therefore the claimant may be awarded

corrections.

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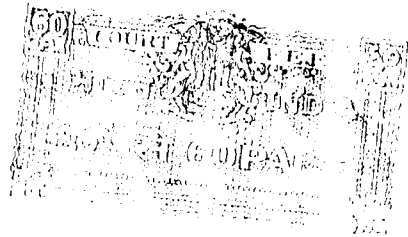
at the rate of  $\text{Rs. } 15\frac{9}{-}$  per sq.yd. It is held in

AIR. 1979, supreme Court, page 869 that the estimation of market value in many cases must depend largely on evaluation of many imponderables and hence it must be necessarily be to some extent a matter of

conjecture or guess. " The learned counsel for the claimant has contended that <sup>that the increase in</sup> we- cent can ~~that~~ into the consideration the increase in the potential value ~~is~~ for <sup>determining</sup> ~~determining~~ the <sup>market</sup> ~~market~~ value and

it is held in ~~India~~ AIR B 1986 Delhi page 140 that

" In assessing value for purposes of compensation, the essential inquiry must be what is the property worth in the market, viewed not merely corrections. <sup>10</sup> ~~10~~ <sup>10/</sup>



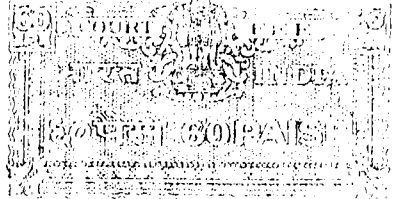
- 10 -

with reference to the uses to which it is at the time applied, but also with reference to the uses to which it may be devoted in further. potentiality is a true element of value. It includes probabilities, possibilities and prospects.

The value of the land in the neighbourhood or adjoining areas is also to be taken into consideration for it may be relevant to a greater or lesser degree. The possibility that the authorities under the reforms Act would have given permission to build on the land has also to be taken into account. Restrictions must be kept in view. The chance of such restrictions being discharged must also be kept in view. "

In another decision reported in AIR 1964 Orissa page 12 it is held that " in awarding compensation for ~~the~~ <sup>the acquired land the potential value of the</sup> land should also be taken into consideration fixing its market value. By potential value is

corrections. *half line missed and then* cont. 11



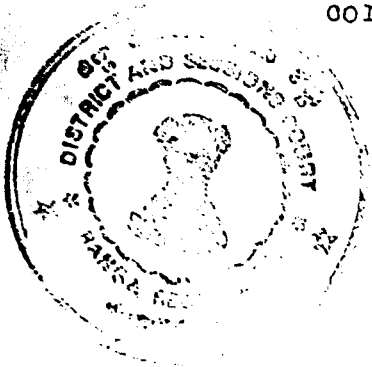
- 11 -

market value on account of the use to which the land may be put in future. The value of the land should not depend on the actual use to which it was put on the date of the notification u/s 4 (1). Where the land in question is admittedly situated on the outskirts of a town which is growing and the area in which the land is situated is also developing as an industrial site, and the land was purchased by the owner not for agricultural purposes, but for the establishment of a work shop or industry, the land should be valued not merely as a vegetable garden but also with reference to other uses to which it can be put in future. "

The land covered by Exs. A1 and A2 is situated at Meerpet village which is adjoining the village Mallapur. Ex. A3 which is blue print map of village Mallapur shows that location of both villages and the

corrections. *M. C. D.*

cont. 12



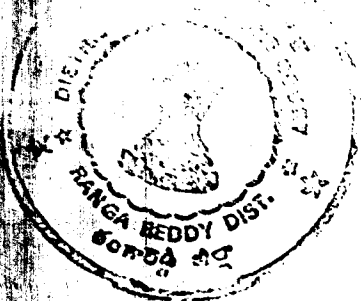


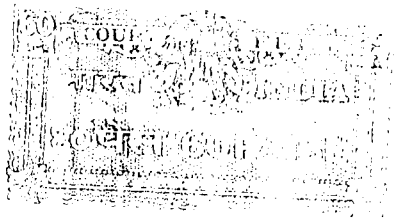
- 12 -

acquired land. As there are no <sup>registered</sup> sales at Mallapur village there is no reason as to why the sales of Mallapur i.e. Ex. A1 and A2 cannot be taken into consideration in determining the market value for the acquired land. The price mentioned in Ex. A1 and A2 is Rs. 6.66 per sq. yd. which is about two years prior to the date of notification. Therefore as on the date of notification prices must have <sup>gone up</sup> gone up. Although the claimant claims compensation at the rate of Rs. 15/- per Sq. yd. I feel it would be just and proper to fix the market value at Rs. 8/- per Sq. yd. having regard to <sup>the increase</sup> ~~no increase~~ in prices and <sup>in</sup> potential value. In this case the land is acquired only for the purpose of laying road and therefore there is not need to make any deduction

corrections. *Four only*

cont. 13





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any deduction for providing amenities.

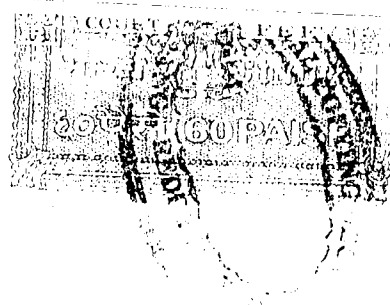
In the result, I fix the market value at Rs. 8/- per sq.yd. Therefore this point is answered accordingly.

7 Point No. 2:

By the Land Acquisition (Amendment) Act 1984 which received the assent of president of India on 25-9-1984. solatium has been increased by Sec. 23 (2) from 15% to 30 %. Therefore the claimant is entitled to 30% on the market value on account of solatium. The LAO has passed the award on 2-8-1976 on which date the amendment Act of 1984 did not come into force. Therefore the LAO did not award additional amount of 12% P.A as laid down u/s 23(1-A) of the Act. It is held in AIR 1986 karnataka page 179 (F.B) AIR 1986 Bombay page (1), AIR 1986 punjab and Haryana corrections.

cont. 14





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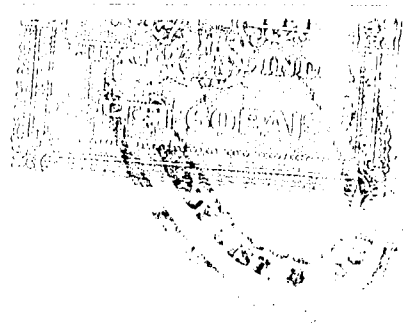
page 305 and 1987 (1) ALT page 137 (F.B.) that  
% "the payment of additional amount of 12% under  
Sec. 23 (1-A) is applicable to all pending cases  
whether on reference or an appeal to court. "  
Therefore the claimant is entitled to the  
additional amount at the rate of 12% p.a..

According to S. 23 (1-A) the additional amount  
whether has to be paid from ~~the~~ <sup>the</sup> date of notifica-  
tion <sup>111</sup> on ~~the~~ <sup>the</sup> date of taking ~~possession~~ possession  
or passing of award which ever is ~~is~~ earlier

In the instant case, the possession was taken over  
by the government on 24-8-1967 which is ear lier to  
paying of award <sup>award</sup> but ~~the~~ the High Court of A.P. in  
W.A. No. 1557/87 has held "that the benefit of  
additional amount cannot be awarded from the date  
ear lier that the date of 4(1) notification even  
though the possession was taken earlier to Sec. 4(1)  
notification. The amount u/s 23(1-A) has to be paid

corrections. *For only.*

cont. 15



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from the date of notification to the date of award.  
" therefore the claimant is entitled to the additional amount of Rs. 12% pa. from the date of notification till the date of award . By virtue of Sec. 28 of Act, the claimant is also entitled to interest at the rate of 9% from the date of taking possession of the land till one year and thereafter at the rate of 15% on the amount fixed by this e<sup>c</sup> court.

In the result, this point is answered accordingly.

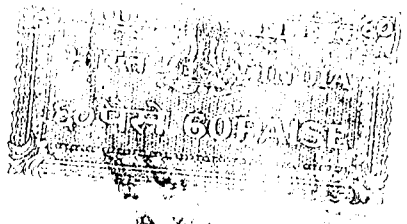
8. In the result, the reference is allowed answering as follows:-

a) The claimant is entitled to the market value at the rate of Rs. 8/- per sq. yd. to the acquired land.

corrected as follows:-

cont. 16





- 1 -

b) The claimant is entitled to 30% solatium of the market value fixed by this court.

c) The claimant is also entitled to the addl. amount of Rs. 15% p.A. from the date of notification i.e. 27-3-1968 till the date of award i.e., 2-6-1976.

d) The claimant is also entitled to interest at the rate of Rs. 9% p.A. from the date of possession i.e., 24-3-1967 till the expiry of one year and <sup>thereafter</sup> therefore at the rate of Rs. 15% p.A. till the date of realisation.

e) Whatever has already been paid on account of market value, solatium, and interest shall be deducted.

f) The claimant is entitled to proportionate costs. The G.P. is entitled to fees as per <sup>rules</sup> corrections. )

cont. 17





g) The time for deposit is 3 months from today.

Dictated to the Steno-typists, transcribed by her, corrected and pronounced by me in the open court, on this the 24-11-1988.

Sd/-  
prl. Subordinate Judge:  
R.R. Dist.

Appendix of evidence  
Witnesses Examined

For Petitioner

PW-1 Venkata Rama Rao

PW-2 Chandraiah

PW-3 R.Veeraiah

For Respondent

RW-1 G.Sajuddin

Exhibits Marked

Ex. A1 CC of Regd. Sale-deed

Ex. A2 CC of Regd. Sale-deed

Ex. A3 Village map map

Ex. A4 Original G.P.A.

corrections. This only.

R.by. A  
T.by. M.Ar

G.by.

// Certified to be true copy //

copying Superintendent  
9/2/89

