

(2003) 12 JH CK 0033

Jharkhand High Court

Case No: A.F.O.D. No"s. 150, 151, 156, 157, 158, 162, 165, 166, 167 to 170 of 1984

State of Bihar (Now Jharkhand)
and Others

APPELLANT

Vs

Ranawati Singh and Others

RESPONDENT

Date of Decision: Dec. 10, 2003

Acts Referred:

- Land Acquisition Act, 1894 - Section 23, 23(1A), 4(1)

Citation: (2004) 1 JCR 587

Hon'ble Judges: Vishnu Deo Narayan, J

Bench: Single Bench

Advocate: Md. Shamim Akhtar, SC II, Arvind Kumar Mehta, JC to SC II, Ajay Kumar Mishra, JC to SC II, for the Appellant; C. Shivnath, B.K. Dey, G. Mahto, S.K. Dey, B. Kumar, S. Topno, for the Respondent

Judgement

Vishnudeo Narayan, J.

These appeals at the instance of the appellant-State of Bihar (now Jharkhand) have been preferred against the impugned judgment dated 08.06.1984 and the award dated 19.06.1984 passed in the Land Acquisition Reference Case No. 6 of 1983, 21 of 1983, 15 of 1983, 24 of 1983, 10 of 1983, 16 of 1983, 18 of 1983, 19 of 1983, 20 of 1983, 12 of 1983, 11 of 1983 and 7 of 1983 by Shri Uma Shankar Prasad, Land Acquisition Judge, Hazaribagh whereby and whereunder the Reference u/s 18 of the Land Acquisition Act (hereinafter referred to as the said Act) made by the respondents for determining the quantum of compensation for the land in acquisition was allowed and compensation was determined at the flat rate of Rs. 2000/- per decimal and besides that the respondents were also allowed additional compensation @ 15% per annum and interest @ 6% on the enhanced amount of compensation. However, on the petition dated 22.07.1988 of the respondents the judgment dated 08.06.1984 was reviewed in view of the provisions of the Amending Act, 1984 and additional compensation (solatium) was enhanced to 30% and interest

@ 9% for one year i.e. from 14.02.1982 to 13.02.1983 instead of 6% and, thereafter, 15% per annum was allowed and besides that additional compensation @ 12% per annum u/s 23(1-A) of the said Act was also allowed on the marked value of the land determined by the Land Acquisition Court and the award was accordingly, modified vide order dated 26.06.1989.

2. The appellant-State had acquired 19.78 acres of land of the respondents vide Land Acquisition Case No. 6/V/1980 situate at Ramgarh and Kaitha, P.S. Ramgarh, District Hazaribagh for marketing yard and construction of building of Ramgarh Agricultural Market Yard in pursuance of the requisition of Executive Engineer, Agricultural Market Division, Patna as per its letter No. 1795 dated 17.07.1977 and administrative sanction was accorded in respect thereof vide letter No. 8724 dated 8.07.1974 by Agriculture and Animal Husbandry Department, Government of Bihar, Patna. Notification No. 29/74-81 dated 25.01.1979 u/s 4(1) of the said Act was published in the District Gazette, Hazaribagh on 01.02.1979 and Notification No. 29/77-251 dated 19.02.1980 regarding declaration u/s 6 of the said Act was also published in the District Gazette on 01.03.1980. The relevant notification u/s 9 of the said Act was also published, thereafter. The possession of the acquired land was taken by the appellant-State on 14.02.1982. The land under acquisition is Dhan I, Dhan II, Dhan III, Tand I, Tand III, Sahan and Parti land, the area of which is 0.62 acres, 0.06 acres, 0.91 acres, 6.92 1/2 acres, 10.51 acres, 0.30 acres and 0.45 1/2 acres total being 19.78 acres. The appellant-State after enquiry prepared the sale report for determining the compensation of the acquired land and determined the compensation in respect thereof @ Rs. 21,088/-, Rs. 13,180/-, Rs. 10,554, Rs. 5,272/-, Rs. 1,318/- and Rs. 659/- per acres for Dhan I, Dhan II, Dhan III, Tand II, Tand III, and Parti land respectively and award was accordingly prepared in respect of the acquired land in the name of the respondents. Out of the acquired land 12.02 acres belong to village Ramgarh whereas 7.76 acres of land is of village Kaitha I will dilate in respect thereof later on in detail. The amount of compensation so determined by the Land Acquisition Authorities was paid to the respondents who claimed to have received the compensation amount under protest.

3. First Appeal No. 150 of 1984 arises out of Land Acquisition Reference Case No. 6 of 1983 in respect of acquisition of 2.90 acres of Tand II land appertaining to plot Nos. 1907 and 1906 of khata No. 78 of village Kaitha and a sum of Rs. 42,207.99 was determined as compensation and award No. 4 in respect thereof was prepared in favour of respondent Bhanu Pratap Singh and others. Respondent Bhanu Pratap Singh died during the pendency of this appeal and his heirs were substituted.

4. First Appeal No. 151 of 1984 arises out of Land Acquisition Reference Case No. 21 of 1983 in respect of acquisition of 4.30 1/4 acres of land which includes 0.30, 0.66 and 3.34 acres of Dhan I, Dhan III and Tand II land respectively appertaining to plot No. 2134 Part, 2135 Part, 2139, 2140, 2141 Parts and 2152 Part of Khata No. 36 of village Ramgarh and a sum of Rs. 57,475.57 was determined as compensation and

award No. 5 was prepared in favour of respondent Barho Mahto and others.

5. First Appeal No. 156 of 1984 arises out of Land Acquisition Reference Case No. 15 of 1983 in respect of acquisition of 1.85 acres of Tand II land appertaining to plot No. 2130 Part of Khata No. 143 of village Ramgarh and a sum of Rs. 22,432.36 was determined as compensation and award No. 2 in respect thereof was prepared in favour of respondent Bansi Mahto and others.

6. First Appeal No. 157 of 1984 arises out of Land Acquisition Reference Case No. 24 of 1983 in respect of acquisition of 0.95 acres of land which includes 0.91 acres of Tand II and 6.64 acres of Dhan II land appertaining to plot No. 1908 Part and 1910 Part of Khata No. 75 of village Kaitha and a sum of Rs. 14,307.43 was determined as compensation and award No. 11 in respect thereof was prepared in favour of respondent Laldhari Mahto and others.

7. First Appeal No. 158 of 1984 arises out of Land Acquisition Reference Case No. 10 of 1983 in respect of acquisition of 0.16 $\frac{2}{3}$ acres of Tand II land appertaining to plot No. 1907 Part of Khata No. 78 of village Kaitha and a sum of Rs. 2020.94 was determined as compensation and award No. 8 in respect thereof was prepared in favour of respondent Madhavi Chatterjee.

8. First Appeal No. 162 of 1984 arises out of Land Acquisition Reference Case No. 16 of 1983 in respect of acquisition of 0.55 acres of Tand II land appertaining to plot No. 1907 Part of Khata No. 78 of village Kaitha and a sum of Rs. 6669.08 was determined as compensation and award No. 10 in respect thereof was prepared in favour of respondent Laldhari Mahto and others.

9. First Appeal No. 165 of 1984 arises out of Land Acquisition Reference Case No. 18 of 1983 in respect of acquisition of 0.30 acres of Tand II land appertaining to plot No. 2148 Part of Khata No. 20 of village Ramgarh and a sum of Rs. 3637.68 was determined as compensation and award No. 12 in respect thereof was prepared in favour of respondent Lalchand Sah and others.

10. First Appeal No. 166 of 1984 arises out of Land Acquisition Reference Case No. 19 of 1983 in respect of acquisition of 0.72 $\frac{3}{4}$ acres of land which includes 0.32 acres of Dhan I land, 0.24 $\frac{1}{2}$ acres of Dhan III and 0.16 $\frac{1}{2}$ acres of Tand II land appertaining to plot No. 2134 Part, 2135 Part, 2141 Part, 2152 Part of Khata No. 36 of village Ramgarh and a sum of Rs. 12,701.57 was determined as compensation and award No. 4 in respect thereof was prepared in favour of respondent Khedu Lal Mahto and others.

11. First Appeal No. 167 of 1984 arises out of Land Acquisition Reference Case No. 20 of 1983 in respect of acquisition of 2.04 acres of Tand II land appertaining to plot Nos. 2142 and 2151 of Khata No. 29 of village Ramgarh and a sum of Rs. 24,736.22 was determined as compensation and award No. 6 in respect thereof was prepared in favour of respondent Putan Munda and others.

12. First Appeal No. 168 of 1984 arises out Land Acquisition Reference Case No. 12 of 1983 in respect of acquisition of 2.01 acres of Tand II land appertaining to plot No. 1906 Part of Khata No. 79 of village Kaitha and a sum of Rs. 24,372.46 was determined as compensation and award No. 5 in respect was prepared in favour of respondent Kishori Devi and others.

13. First Appeal No, 169 of 1984 arises out of Land Acquisition Reference Case No. 11 of 1983 in respect of acquisition of 0.16 $\frac{2}{3}$ acres of Tand II land appertaining to plot No. 1907 Part of Khata No. 78 of village Kaitha and a sum of Rs. 2020.93 was determined as compensation and award No. 7 in respect thereof was prepared in favour of respondent Heranka Kumar Mukherjee.

14. First Appeal No. 170 of 1984 arises out of Land Acquisition Reference Case No. 7 of 1983 in respect of acquisition of 0.16 $\frac{2}{3}$ acres of Tand II and appertaining to plot No. 1907 Part of Khata No. 78 of village Ramgarh and a sum of Rs. 2020.93 was determined as compensation and award No. 6 in respect thereof was prepared in favour of respondent Shyamal Chandra Ghosal.

15. The respondents had filed their respective petitions u/s 18 of the said Act before the Collector, Hazaribagh in respect of the awards aforesaid in Land Acquisition Case No. 6/V/1980 to make reference to the Land Acquisition Court for determining the proper quantum of compensation payable to them. The Collector referred the matter to the Land Acquisition Court, Hazaribagh u/s 19 of the said Act.

16. The case of the respondents of First Appeal Nos. 150 of 1984, 157 of 1984, 158 of 1984, 162 of 1984, 168 of 1984 and 169 of 1984 in their respective reference petition is similar and these appeals are in respect of the land under acquisition of village Kaitha. Their case, inter alia, is that the compensation determined by the appellant-State regarding the land under acquisition is grossly low and inadequate and the prevalent market price of the similar land in the locality during the period of prenotification was Rs. 10,000/- per decimals and according to the respondent of First Appeal No. 150 of 1984 the prevalent market price of the similar land at the relevant time was Rs. 3000/- to Rs. 15,000/- per decimal whereas according to the case of respondent of First Appeal No. 169 of 1984 the prevalent market price of the land was Rs. 2000/- to Rs. 5000/- per decimals. Their case further is that the land under acquisition is situated adjacent to Ramgarh Bokaro Chas Road and the land under acquisition is near a very busy market and it is culturable land yielding three or four crops in a year and it is situated in the close vicinity of the industrial area and further the acquired land as the potentiality of being used for construction of residential buildings. It is also alleged that the classification of the land under acquisition has not been correctly done by the Land Acquisition Authorities. The case of the respondent of First Appeal No. 150 of 1984 is further that there was Chuna Bhatta on his land under acquisition besides a house thereon and six Mahua trees.

17. First Appeal Nos. 151 of 1984, 156 of 1984, 165 of 1984, 166 of 1984, 167 of 1984 and 170 of 1984 are in respect of the land under acquisition situated in village Ramgarh. Their case, inter alia, is that the land under acquisition is in the close vicinity of a big market adjacent Ramgarh Bokaro Chas road and there is industrial area around the acquired land. Their case further is that the acquired land has great potentialities and can be used for construction of residential buildings and the compensation determined by the Land Acquisition Authorities is grossly low and inadequate and against the prevalent market price of the land in the vicinity of the acquired land during the period of pre-notification u/s 4(1) of the said Act. It has also been alleged that most of the acquired land is first class Bari land yielding four crops in a year. According to the respondent of First Appeal Nos. 151 of 1984, 156 of 1984 and 167 of 1984 the prevailing market price of the land in the vicinity of the land under acquisition was Rs. 10,000/- per decimal whereas as per the case of the respondents of First Appeal Nos. 165 of 1984 and 166 of 1984 it was between Rs. 5,000/- to Rs. 15,000/- per decimal but according to the case of respondent of First Appeal No. 170 of 1984 its rate was Rs. 2000/- to Rs. 5000/- per decimal.

18. The appellant-State has not filed any rejoinder to the reference petitions of the respondents before the Land Acquisition Court.

19. Cross objection under Order XLI, Rule 22 of the CPC have been filed by the respondents in all the appeals aforesaid but the cross objections filed in First Appeal Nos. 168 of 1984 and 179 of 1984 were rejected due to the nonpayment of the required Court fee.

20. The learned Court below framed an issue for determination in this case which is as to whether the compensation determined and paid to the respondents is according to the market rate prevalent at the relevant period and whether the same is just and adequate.

21. In view of the oral and documentary evidence of the record the learned Court below came to the finding that the compensation determined by the Land Acquisition Authorities has no rationale and the same is inadequate but at the same time the claim as made by the claimants is equally not realistic and tenable and when the rate of sale of the land situate by the side of the said road was Rs. 600/- per decimals determined by the Court in the year 1957-58, then in that case the rate of sale of the acquired land of village Kaitha and Ramgarh shall definitely be higher several times in the year 1980 and the rate of sale as prepared by the Land Acquisition Authorities which is the basis for determining the compensation cannot be accepted. It has also been held that when the land covered under Ext. 1/B the sale deed of the year 1974 in respect of two decimals of land for Rs. 3500/-, is similar to the nature of the acquired land of village Kaitha and Ramgarh, then in that case the prevailing market price of the acquired land in the year 1980 shall, accordingly, be determined proportionately and the learned Court below determined the compensation of the acquired land at the flat rate of Rs. 2000/- per decimal.

22. Assailing the impugned judgment and the award of the learned Court below it has been submitted by the learned counsel for the appellant-State that there is no rationale or reasonable ground for the learned Court below to determine the compensation of the acquired land at the flat rate of Rs. 2000/- per decimal on the date of notification u/s 4(1) of the said Act. It has also been submitted that the Land Acquisition Authorities have rightly assessed the compensation of the acquired land as per the sale rate collected by the Land Acquisition Authorities from the registration office of the land situate in the vicinity of the acquired land and the basis for determination of compensation is serial No. 9 of Ext. B and serial No. 5 of Ext. 1/B i.e. the sale reports and the serial No. 9 of Ext. B is in respect of 1.47 acres of land for Rs. 31,000/- and the sale deed in respect thereof is dated 09.05.1978 and the land under serial No. 9 is Dhan I and Dhan II land situated at a distance of five to nine chains from the acquired land and the land covered under serial No. 5 in the sale report Ext. B/1 is in respect of 8 decimals of Dhan II land of village Kaitha which is situated at a distance of 47 chains from the acquired land and its sale deed is dated 09.05.1978 for Rs. 1000/- and the amount of compensation has been rightly determined on the basis of the rate of sale under serial Nos. 9 and 5 of Ext. B and Ext. 1/B respectively and there is no illegality therein and the learned Court below did not assign any cogent reason for discarding the said evidence while determining the compensation of the acquired land. It has also been submitted that the entire land under acquisition is agricultural land though some of the plots are adjacent the road but the acquired land is situated one mile away from the Ramgarh market and as such Ext. 1/B cannot be the proper yardstick for determining the compensation of the acquired land and the learned Court below has erred in relying upon Ext. 1/B being the basis for enhancing the compensation as determined by the Land Acquisition Authorities. Lastly it has been submitted that the learned Court below has committed an error in the impugned judgment by not deducting the development charges from the compensation awarded to the respondents. In support of his contention reliance has been placed on the ratio of the case of *Tejumaal Bhojwani and Ors. v. State of U.P.* III (2003) CLT 160 (SC).

23. Refuting the contention aforesaid it has been submitted by the learned counsel for the respondents that the compensation of the acquired land ought to have been determined on the basis of the sale deed Ext. 1/A, Ext. 1/C and Ext. 1/E and in no case the compensation of the land under acquisition can be determined less than Rs. 5,000/- per decimal considering the potentialities surrounding the acquired land and the learned Court below did not properly consider the sale deeds aforesaid and has committed a manifest error in determining the compensation @ Rs. 2000/- per decimal at the flat rate. It has also been submitted that Ext. 2 cannot be the proper yardstick to determine the compensation of the acquired land as Ext. 2 is in respect of the acquisition of land which had taken place in the year 1957-58 and within a period of 22 years there has been 7 or 8 times increase in the market price of the said land. It has also been submitted that admittedly the acquired land is by the side

of the macadamized road which is a National Highway which runs from Ramgarh to Bokaro and Chas and it is within the market area of the Ramgarh town and the acquired land is also fit for building purposes and the area around the land under acquisition is fast growing into industrial area having all modern facilities and there are also railway stations in the close vicinity of the acquired land and the nature of the acquired land cannot be said to be purely agricultural land. In support of his contention reliance has been placed upon the ratio of the case of [P. Ram Reddy and Others Vs. Land Acquisition Officer, Hyderabad Urban Development Authority, Hyderabad and Others,](#) ; [Smt. Tribeni Devi and Others Vs. Collector of Ranchi,](#) ; [Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and Another,](#) ; [The Collector, Raigarh Vs. Harisingh Thakur and Another,](#) ; [The Special Land Acquisition Officer, BTDA, Bagalkot Vs. Mohd. Hanif Sahib Bawa Sahib,](#) and [Special Deputy Collector and another etc. Vs. Kurra Sambasiva Rao and others, etc.,](#) . Lastly it has been contended that the Land Acquisition Authorities as well as the learned Court below ought to have considered serial Nos. 6, 26, 33, 36, 72 and 81 of the sale report (Ext. B) for determining the adequate compensation of the acquired land payable to the respondents.

24. There is no denying the fact that the appellant-State had acquired 19.78 acres of land of the respondents vide Land Acquisition Case No. 6/V/1980 situate at village Ramgarh and village Kaitha, P.S. Ramgarh, District Hazaribagh for marketing yard and construction of the building of Ramgarh Agricultural Market yard and notification dated 25.01.1979 u/s 4(1) of the said Act was published in the District Gazette, Hazaribagh on 01.02.1979 and the declaration u/s 6 of the said Act was also published in the District Gazette on 01.03.1980. The possession of the acquired land was taken by the appellant-State on 14.02.1982 which was also delivered to the Ramgarh Agricultural Marketing Board. The land under acquisition has been classified as Dhan I, Dhan II, Dhan III. Tand II, Tand III, Sahan and Parti land and the appellant-State determined the compensation of the acquired land on the basis of the sale rate prepared by it as per the rate of sale collected from the registration office of the land in the vicinity of the acquired land and the said sale reports are Ext. B and Ext. B/1 in respect of village Ramgarh and village Kaitha respectively and the compensation of the acquired land was determined @ Rs. 21,088/-, Rs. 13,180/-, Rs. 10,554/-, Rs. 5,272, Rs. 1,318/- and Rs. 659/- per acre for Dhan I, Dhan II, Dhan III, Tand II, Tand III and Parti land respectively and award was, accordingly, prepared in respect of the acquired land in the name of the respondents but the learned Court below considering the evidence oral and documentary on the record and relying upon Ext. 1/B read with Ext. 2 and discarding the other sale deeds not within the consideration zone enhanced the compensation of the acquired land at the flat rate of Rs. 2000/- per decimal.

25. It has been settled by plethora of judicial pronouncement of this Court as well as of the Apex Court that the compensation should be paid to the claimant of the land under acquisition taking into consideration the market price of the land on the date

of publication of the notification u/s 4(1) of the said Act. In the case of The Collector, Raigarh (supra) it has been observed by the Apex Court which runs thus :

".....The question as to whether a land has potential value as a building site or not is primarily one of fact depending upon several factors such as its condition and situation, the user to which it is put or is reasonably capable of being put, its suitability for building purposes, its proximity to residential, commercial and industrial areas and educational, cultural or medical institutions, existing amenities like water, electricity and drainage and the possibility of their future extension, whether the nearby town is a developing or a prospering town with prospects of development schemes and the presence or absence of pressure of building activity towards the land acquired or in the neighborhood thereof."

In the case of Smt. Tribeni Devi and others (supra) the Apex Court has observed thus :

".....The compensation payable to the owner of the land is the market value which is determined by reference to the price which a seller might reasonably expect to obtain from a willing purchaser, but as this may not be possible to ascertain with any amount of precision, the authority charged with the duty of award compensation is bound to make an estimate judged by an objective standard. The land acquired has, therefore, to be valued not only with reference to its condition at the time of the declaration u/s 4 of the Act but its potential value also must be taken into account. The sale deeds of the lands situated in the vicinity and the comparable benefits and advantages which they have, furnish a rough and ready method of computing the market value. This, however, is not the only method. The rent which an owner was actually receiving at the relevant point of time or the rent which the neighbouring lands of similar nature are fetching can be taken into account by capitalizing the rent which according to the present prevailing rate of interest is 20 times the annual rent. But this also is not a conclusive method. The methods of valuation to be adopted in ascertaining the market value of the land on the date of the notification u/s 4(1) are : (i) Opinion of experts, (ii) the price paid within a reasonable time in bona fide transaction of purchase of the lands acquired or the lands adjacent to the lands acquired and possessing similar advantages; (iii) a number of years' purchase of the actual or immediately prospective profits of the lands acquired. These methods, however, do not preclude the Court from taking any other special circumstances into consideration, the requirement being always to arrive as near as possible at an estimate of the market value. In arriving at a reasonable correct market value, it may be necessary to take even two or all of those methods into account inasmuch as the exact valuation is not always possible as no two lands may be the same either in respect of the situation or the extent or the potentiality nor is possible in all cases to have reliable material from which that valuation can be accurately determined."

In the case of P. Ram Reddy and others (supra) it has been observed by the Apex Court which runs thus :

".....Market value of the acquired land cannot only be its value with reference to the actual use to which it was put on the relevant date envisaged u/s 4(1) of the LA Act, but ought to be its value with reference to the better use to which it is reasonably capable of being put in the immediate or near future. Possibility of the acquired land put to certain use on the date envisaged u/s 4(1) of the LA Act, of becoming available for better use in the immediate or near future, is regarded as its potentiality. When the acquired land has to potentiality of being used for building purposes in the immediate or near future it is such potentiality which is regarded as building potentiality of the acquired land. Therefore, if the acquired land has the building potentiality, its value, like the value of any other potentiality of the land should necessarily be taken into account for determining the market value of such land. Therefore, when a land with building potentiality is acquired, the price which its willing seller could reasonably expect to obtain from its willing purchaser with reference to the date envisaged u/s 4(1) of the LA Act, ought to necessarily include that portion of the price of the land attributable to its building potentiality, Such price of the acquired land then becomes its market value envisaged u/s 23(1) of the LA Act."

In the case of Special Deputy Collector and another (supra) the Apex Court has observed which runs thus :

".....What is fair and reasonable and adequate market value is always a question of fact depending on the evidence adduced, circumstantial evidence, and probabilities arising in each case. The guiding star or the acid test would be whether a hypothetical willing vendor would offer the lands and a willing purchaser in normal human conduct would be willing to buy as a prudent man in normal market conditions prevailing in the open market in the locality in which the acquired lands are situated as on the date of the notification u/s 4(1) of the Act; but not an anxious buyer dealing at arm's length with throw away price, nor facade of sale or fictitious sales brought about in quick succession or otherwise to inflate the market value. The judge should sit in the arm chair of the said willing buyer and seek an answer to the question whether in the given set of circumstances as a prudent buyer he would offer the same market value which the Court proposed to fix for the acquired lands in the available market conditions."

In the case of Special Land Acquisition Officer, BTDA, Bagalkot (supra) the Apex Court has thus observed :

".....After due deliberations on the contentions raised by the counsel for the parties, we are of the opinion that on the given facts and circumstances of the present case the appreciation of 10% per annum given for the subsequent years is neither excessive nor unreasonable so as to call for our interference."

In the case of *Suresh Kumar v. Town Improvement Trusts Bhopal* (1989) BLJR 21 (SC), it has been observed by the Apex Court that "it is true that the market value of the land acquired has to be correctly determined and paid so that there is neither unjust enrichment on the part of the acquirers nor undue deprivation on the part of the owner. Section 23 of the Act enumerates the matters to be considered in determining compensation. The first to be taken into consideration is the market value of the land on the date of publication of the notification u/s 4(1). The market value is that of a willing vendor and a willing purchaser. A willing vendor would naturally take into consideration such facts as would contribute to the value of his land including its unearned increment. A willing purchaser would also consider more or less the same factors. There may be many ponderable and imponderable factors in such estimation or guess work. Section 24 of the said Act, enumerates the matters which the Court shall not take into consideration in determining compensation. Section 25 provides that the amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector u/s 11. It is an accepted principle that the land is not to be valued, merely by reference to the use to which it has been put at the time at which its value has to be determined i.e. the date of the notification u/s 4, but also (sic) capable of being put in the future. A land which is certainly or likely to be used in the immediate or reasonable near future for building purposes but which at the valuation is waste land or has been used for agricultural purposes, the owner, however willing a vendor he is, is not likely to be content to sell the land for its value as waste or agricultural land, as the case may be. The possibility of its being used for building purposes would have to be taken into account. It is well established that the special though natural, adaptability of the land for the purpose for which it is taken is an important element to be taken into consideration in determining the market value of the land. In such a situation, the land might have already been valued at more than its value as agricultural land if it had any other capabilities. In sum, in estimating the market value of the land or all to the capabilities of the land and or all its legitimate purposes to which it may be applied or for which it may be adapted are to be considered and not merely the condition it is in and the use to which it is at the time applied by the owner. The proper principle is to ascertain the market value of the land taken into consideration the special value which ought to be attached to the special advantage possessed by the land, namely, its proximity to developed urbanized areas." In the case of *Shambhu Nath and Ors. v. State of Bihar* 1989 PLJR 676, it has been observed that the compensation should be paid taking into consideration (sic) including the hearing important prospect and purpose of the land sought to be acquired and the location of the land take it out from the purview of agricultural land. In the case of [Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and Another](#), the Apex Court has observed that the market value of land must be determined as on crucial date of publication of notification u/s 4 and has also prescribed general guidelines therein to be applied with the understanding informed with (sic).

26. Now on the basis of the oral and documentary evidence on the record coupled with the guidelines referred to above the market value of the land under acquisition prevailing on 01.02.1979 i.e. date of notification u/s 4(1) of the said Act has to be ascertained for determining the just and adequate compensation payable to the respondents. It is essential to mention at the very outset that the land under acquisition in this case is situated in village Ramgrah and it is adjoining village Kaitha and the entire land under acquisition is agricultural land and Ext. 4 is sheet No. 4 of village Ramgarh. The survey map of village Ramgrah consists of five sheets. The land under acquisition of village Ramgrah is in the south west corner adjacent north of the Ramgrah Gola Bokaro Chas road Kaitha is situated adjacent west of village Ramgarh and north of the aforesaid road. The land under acquisition of village Kaitha is adjacent the land under acquisition of village Ramgarh and some of the land under acquisition of both the villages are adjacent the said road. It is equally pertinent to mention there that the land acquired under Ext. 2 in the year 1957-58 is situated south east extremity adjacent south the said road. Ext. 4 has been drawn at the scale of 16 inch per mile. The distance between the south western extremity and south east extremity adjacent the road on measurement as per Ext. 4 comes to 13 Inches and, therefore, the distance between the two comes to 1430 yards. The word mile has been defined in the Law of Lexicon as a measure of length or distance containing eight furlongs or 1760 yards or 5280 feet. The township of Ramgarh is definitely far away from the acquired land. There is averment in the reference petition that the land under acquisition is situated adjacent Ramgarh Bokaro Chas road and is near a very busy market and it is culturable land yielding three or four crops in a year and it is in the close vicinity of the industrial area and acquired the land for construction of residential buildings. There is no averment in the reference petition that the land under acquisition has any modern facilities such as electricity, water facilities, educational, institutions, hospitals, etc, in the close vicinity of the land under acquisition.

27. Let us now advert to the oral evidence on the record. AW-7, Bhanu Pratap Singh, the respondent in First Appeal No. 150 of 1984 arising out of Land Acquisition Reference Case No. 6 of 1983 has deposed that his land is also under acquisition in this case and the said land is situated at the side of Ramgarh Bokaro road and he was-running Chuna Bhatta on the said land and there were eight Mahua trees over the said land besides a "shade" and there is also factories in the vicinity of the acquired land and the prevalent market price of the acquired land at the relevant period was Rs. 15,000/- to Rs. 18,000/- per decimal. It is pertinent to mention here that he has made out a case in the reference petition that the prevailing market price of the land under acquisition was Rs. 3000/- to Rs. 15,000/- per decimal and, therefore, his evidence is in conflict with his case as averred in his reference petition. AW-5, Umardas Mahto has deposed that his land, which was acquired, is agricultural land having three crops annually and it is fit for construction of the house thereon and the prevailing market price of his land is Rs. 9,000/- to Rs. 10,000/- per decimal.

AW-4, Triveni Sao has deposed that his land under acquisition is agricultural land in which potato and groundnut are grown therein besides several other crops and his land is situated adjacent Ramgarh Gola Bokaro Road and the said land is situated near Ramgarh market and there are industrial units nearby and he is entitled to get compensation @ Rs. 5,000/- to Rs. 6,000/- per decimal. The aforesaid witnesses have deposed not to have acquired any land either in village Ramgarh or village Kaitha as per the rate they have deposed. AW-2 has deposed that Ramgarh is a growing town having commercial activities and there are two military cantonments and the land under acquisition is situated near the road and the said land is fit for construction of building thereon. He has also deposed that the land under acquisition is situated in the east of Ramgarh and the main market is on the Gola road which starts from the Ramgarh chowk. AW-2 has further deposed that he has purchased 2-1/2 decimals of land for Rs. 11,000/- on 02.05.1975 which is on Gola road. AW-1, Ganga Prasad Agrawal has deposed that Ramgarh is a growing town having cantonments and presently no land is available even @ Rs. 8,000/- per decimal. OW-1 Abhay Nandan Mishra has deposed that he has prepared the sale report of the acquired land from the sale figure collected from the registration office and the compensation has been determined as per the sale report. In para 11 of his cross examination he has deposed that Ramgarh is a growing town and the land under acquisition is situated by the side of the road and major portion of the acquired land is away from the said road and there is sufficient commercial activities at Ramgarh. He has further deposed that there is a factory of alum on Ramgarh Gola Bokaro road but there is no petrol pump. He has also deposed that the market price of the acquired land has been correctly determined. OW-2 has deposed that the acquired land is by the side of the road and the compensation has been determined properly. OW-3 has deposed that Ramgarh is a growing commercial town and the acquired land is situated one mile away from the Ramgarh market and the said acquired land is situated on Ramgarh Bokro road. He has also deposed that when he had inspected the acquired land there was crop therein. He has also deposed that there is a factory south of the acquired land. From the oral evidence referred to above it becomes an established fact that the land under acquisition was agricultural land at the time of the notification u/s 4(1) of the said Act and some of the plots are situated adjacent the road and the remaining portion of the acquired land are not adjacent the said road rather they are far behind the said road. The main Ramgarh market is at a distance of one mile from the land under acquisition. There is no urban facilities surrounding the acquired land except the alum factory nearby south of the said road. There is no denying the fact that Ramgarh is a growing town having commercial activities. It is consistent evidence of the witnesses examined on behalf of the respondents that the Land Acquisition Authorities have determined the compensation grossly low and inadequate. The evidence adduced on behalf of the appellant-State is that they have rightly determined the compensation of the acquired land Serial No. 9 of Ext. B and Serial No. 5 of Ext. B/1 are the yardsticks whereby the compensation of the acquired land has been determined Serial No. 9 in

the sale report Ext. B is in respect of 1.47 acres of Dhan I and Dhan II land of village Ramgarh for Rs. 31,000/- and the sale deed in respect thereof is dated 09.05.1978 and the said land is situate at a distance of 5 to 9 chains from the acquired land and the land covered under Serial No. 5 in the sale report Ext. B/1 is in respect of eight decimals of Dhan II land of village Kaitha for Rs. 1000/- the sale deed of which is dated 09.05.1978 and it is situated at a distance of only 47 chains from the land under acquisition Serial No. 6 in the sale report is in respect of 19 decimals of Tand II land of village Ramgarh for Rs. 800/- and it is situated at a distance of 68 chains from the acquired land and as per the sale report the nature of this land is quite different from the acquired land Serial No. 26 in the sale report of Ext. B is in respect of seven decimals of Dhan I and Dhan II land for Rs. 7000/- and it is in sheet No. 3 of the survey map of village Ramgarh and it is in the close vicinity of the Ramgarh town Serial No. 33 of the sale report Ext. B is in respect of 38 decimals of Tand II and Parti land along with a house for Rs. 60,000/- and it is in sheet No. 3 of the survey map of the Ramgrarh village and it is far away from the acquired land Serial No. 36 of the sale report Ext. B is in respect of the decimals of Tand II land along with house and also mango trees thereon for Rs. 13,500/- and it is in sheet No. 4 of the survey map of the Ramgarh village Serial No. 72 is in respect of one decimal of Tand I land for Rs. 500/- and it is in the midst of the Ramgarh town and serial No. 81 is in respect of 7-1/2 decimals of Tand II land for Rs. 15,000/- adjacent Ranchi Hazaribagh road and this land is homestead land in sheet No. 4 of the survey map of the Ramgarh village and the Land Acquisition Authorities have hightly not acted upon the sale rate of the aforesaid sale deeds for determining the proper and adequate compensation of the land under acquisition and in view of the different nature and location as stated above the sale rate of the aforesaid land cannot be the proper yardstick for determining the compensation of the acquired land and thus I see no force in the contention of the learned counsel for the respondents in respect thereof.

Now a pertinent question arises as to whether the sale rate as per Serial No. 9 of the sale report Ext. B and serial No. 5, the sale report Ext. B/1 can be proper yardstick for determining the proper and adequate compensation of the land under acquisition. It is relevant to mention here that the Land Acquisition Authorities while determining the proper and adequate compensation of the acquired land have not considered and taken into consideration the potentialities of the land under acquisition as well as the fact that the aforesaid land is adjacent the National Highway which runs from Ramgarh to Bokaro and Chas. Therefore, no reliance can be placed on the rate of sale of serial No. 9 and serial No. 5 aforesaid of Ext. B and Ext. B/1 respectively for determining the proper compensation of the land under acquisition. Ext. 1 is the sale deed dated 20.06.1981 for 2 3/4 decimals of land for Rs. 10,000/-. The rate of sale as per Ext. 1 cannot be the proper yardstick for determining the proper and adequate prevailing market price of the land under acquisition for the reason that the said land is a homestead land having house in its eastern boundary in the town of Ramgarh and further it is much after the

notification u/s 4(1) of the said Act In this case. Ext. 1/B is the sale deed dated 28.01.1974 for two decimals of land for Rs. 3500/- and it is in the close vicinity of the cantonment situate in the main town of Ramgarh. This sale deed though relied upon by the learned Court below as assessing the market price of the land under acquisition does not appear to be proper yardstick for the reason that this sale deed is of the year 1974 i.e. more than five years prior to the date of notification u/s 4(1) of the said Act as well as it is within the town of Ramgarh near the cantonment. Ext. 1/C is the sale deed dated 19.06.1979 in respect of three decimals of land of plot No. 2460 for Rs. 6,000/- of village Ramgarh and this plot is west of an inner road in village Ramgarh in sheet No. 4 of the survey map in which the land under acquisition of the Ramgarh is situate and this land is in the vicinity of the residential area of Ramgarh and is fit for construction of the house thereon. Therefore, this sale deed Ext. 1/C can also not be a proper yardstick for determining the proper and adequate prevailing market price of the land under acquisition. Ext. 1/D is the sale deed dated 17.01.1975 of plot No. 3220 in respect of 2-1/4 decimals of land for Rs. 3,000/- and the said plot appears to be in sheet No. 5 of the survey map of Ramgarh village and the rate of sale as disclosed in this sale deed cannot be the proper yardstick for determining the compensation of the acquired land for the reasons that this sale deed is of several years prior to the notification of Section 4(1) of the said Act and it is equally far away from the land under acquisition. Ext. 1/A and Ext. 1/E are not on the records and these two documents have been taken back by the respondents and the same have not been brought on the record afresh. Both the documents have been referred in para 6 of the impugned judgment and it appears from the perusal of para 6 of the impugned judgment that Ext. 1/A is the sale deed dated 02.05.1975 for Rs. 11,000/- in respect of 2-1/2 decimals of land along with a well in the close vicinity of the Ramgarh cantonment. The sale deed Ext. 1/A can also not be a proper yardstick to determine the proper and adequate compensation of the land under acquisition for the reason that it is several years prior to the date of the notification u/s 4(1) besides the fact that it is situated very far away from the land under acquisition coupled with the fact that it is in the main town area near, the army cantonment. Ext. 1/E is the sale deed of the year, 1979 in respect of half decimal of land with house for Rs. 21,000/-situate in the close vicinity of the Ramgarh cantonment and the sale rate mentioned therein can also not be treated as a proper yardstick for determining compensation of the acquired land for the reasons which are applicable to Ext. 1/A. Therefore, it is crystal clear that none of the sale deeds depicts the correct market price of the land under acquisition at the relevant time and, therefore, all these sale deeds are of no avail to the respondents. However, there is Ext. 2 on the record which has some considerable importance. Ext. 2 is the judgment dated 27.07.1965 of the Land Acquisition Court passed in Land Reference Case No. 87/291 of 1964/64. In this case the land was acquired for extension of Gola Bokaro Chas road in the year 1957- 58. The land of this case is situated adjacent south of the said road in the extreme western south portion of sheet No. 4 of the Survey May (Ext. 4) and at a distance of 1430 yards west of the

land under acquisition while is in the said sheet No. 4 of the survey map. Furthermore the land of the said case is nearer to the Ramgarh market. The Land Acquisition Authority had determined the compensation of the said land inadequately and improperly which was enhanced @ Rs. 500/- per decimal vide order dated 27.07.1965 passed in the said Land Acquisition Reference case. There is no denying the fact that the value as well as the market price of the land had increased several times when the present acquisition of the land in question has been made. Therefore, the prevalent market price on the relevant date of the notification of the land under acquisition can safely be determined as per Ext. 2 being the base year giving appreciation @ 10% for every subsequent year after the base year. The acquisition in this case have been made as per notification dated 25.01.1979 published in the Gazette on 01.02.1979 i.e. after 22 years of the notification of the acquisition in Ext. 2 and in this view of the matter the value of the appreciation comes to Rs. 1100/- plus the market price i.e. Rs. 500/- per decimal as the base year of 1957-58 and thus the market price of the land under acquisition on the relevant date of the notification in this case comes to Rs. 1600/- per decimal.

The learned counsel for the respondents in course of his submission has relied upon the ratio of the case of Special Land Acquisition Officer, BTDA Bagalkot (supra). Therefore, having placed reliance upon the ratio of this case, the prevalent market price considering all its potentialities is hereby determined at the flat rate of Rs. 1600/- per decimal. The learned Court below did not consider Ext. 2 coupled with the appreciation rate of every subsequent year in proper perspective and has erroneously determined the compensation of the land under acquisition at a flat rate of Rs. 2000/- per decimal and. therefore, the determination of the fair market price prevailing on the date of the notification by the learned Court below is erroneous. In view of the evidence of the record read with the ratio of the case of Special Land Acquisition Officer, BTDA Bagalkot (supra) the prevailing market price of the land under acquisition in this case is determined and fixed @ Rs. 1600/- per decimal besides solatium @ 30%, additional compensation u/s 23(1-A) of the Act @ 12% per annum on the said market value from the date of notification u/s 4(1) of the said Act to the date of the award of the Collector or the date of taking possession of the land in question whichever is earlier and interest for the first year @ 9% and, thereafter, @ 15% per annum on the compensation amount of the land under acquisition @ Rs. 1600/- per decimal and there shall also be a deduction @ 25% on account of development charges from the compensation awarded to the claimants-respondent as per the ratio of the case of Tejumal Bhojwani and others (supra). The award of the learned Court below is, accordingly, modified.

28. There is merit in these appeals and they partly succeed. There is no merit in the cross objection which fail. The cross objection of the respondents are hereby dismissed. The appeals are hereby partly allowed as indicated above. Let the award be accordingly, modified. Parties will bear their own cost in the facts and circumstances of this case.