

(2003) 1 ALD 424 : (2003) 3 ALT 647

Andhra Pradesh High Court

Case No: AS No. 2489 of 2001 and Cross Objection (SR) No. 55294 of 2002

Singareni Collieries
Company Limited

APPELLANT

Vs

Nookala Lingaiah and
Others

RESPONDENT

Date of Decision: Nov. 19, 2002

Acts Referred:

- Land Acquisition Act, 1894 - Section 23

Citation: (2003) 1 ALD 424 : (2003) 3 ALT 647

Hon'ble Judges: G. Yethirajulu, J; B.S.A. Swamy, J

Bench: Division Bench

Advocate: Ramesh Ranganathan, Additional A.G. and A. Ravi Babu, for the Appellant;

Final Decision: Dismissed

Judgement

G. Yethirajulu, J.

The appellants preferred A.S.Nos. 2489, 2532, 2576, 2756 of 2001 and A.S.Nos.700 and 1273 of 2002 respectively against the judgments of the learned Senior Civil Judge, Peddapalli, Karimnagar District in O.P.Nos. 22, 25, 24 of 1994 and O.P.Nos. 75 and 76 of 1995 respectively, questioning the enhancement of compensation over the amount sanctioned by the Land Acquisition Officer (LAO) for the land acquired for Singareni Collieries Company Ltd.

2. At the instance of all the claimants the LAO referred the matters to the Court of Senior Civil Judge, Peddapalli u/s 18 of the Land Acquisition Act, 1894 ("the Act" for brevity). The acquired lands are situated in Janagaon Revenue Village, Ramagundam Municipal Limits, Karimnagar District.

A.S. No. 2489 of 2001

3. The LAO of Land Acquisition Unit, Godavarikhani acquired an extent of Ac.42.12 guntas of land situated in S.Nos.58, 60, 68, 72, 250, 251, 254, 86 and 87 of Janagaon Revenue Village for laying road to sand quarry from Godavari River to Godavarikhani. A draft notification u/s 4(1) of the Act was published in the Gazette on 3-7-1989. The LAO passed award No. 9/91 dated 18-4-1991 awarding compensation of Rs. 7,500/- per acre.

4. In support of their case, the claimants examined two witnesses as P.Ws.1 and 2 and marked Ex.A.1-certified copy of a registered sale deed dated 11-7-1988. The LAO examined R.Ws.1 and 2 and marked Ex.B.1-C.C. of the award, Ex.B.2-C.C. of the registered sale deed dated 25-11-1987 and Ex.B.3-village map of Janagaon Revenue Village.

5. The lower Court enhanced the compensation from Rs. 7,500/- to Rs. 45,000/- per acre with solatium, additional market value and interest etc., through its order dated 26-2-2001.

A.S. No. 2532 of 2001

6. An extent of Ac.67-36 guntas of land, dry as well as wet, situated in S.Nos.392 to 403 and 405 to 408 of Janagaon Revenue Village was acquired for the purpose of depillaring of GDK-2A incline. The LAO awarded compensation at Rs. 16,000/- per acre for Ac.7-04 guntas of wet lands, Rs. 15,000/- per acre for Ac.30-23 guntas of dry-cum-wet lands, and Rs. 7,500/- per acre for Ac.30-09 guntas of dry lands. The claimants sought for reference to the Civil Court u/s 18 of the Act. The said reference was registered as O.P. No. 26 of 1994 on the file of the Senior Civil Judge, Peddapalli.

7. The claimants after filing their claim statements adduced evidence before the lower Court through P.Ws.1 and 2 and marked Ex.A.1 dated 11-7-1988 on their behalf. The Singareni Collieries Company Ltd., at whose instance the acquisition was made examined R.Ws.1 to 4 and marked Ex.B.1-Award.

8. The lower Court enhanced the compensation to Rs. 45,000/- per acre with solatium, additional market value and interest etc. The lower Court also awarded Rs. 10,000/- towards compensation for subsoil mineral rights.

A.S.No. 2576 of 2001

9. This appeal arises from the order of the Senior Civil Judge, Peddapalli in O.P.No. 25 of 1994 passed on a reference made by the LAO u/s 18 of the Act in Award No. 1/1991 dated 8-1-1991 in respect of acquisition of an extent of Ac.66.17 guntas of dry land situated in S.Nos.362, 367, 377, 378, 390 and 413.

10. The lands were acquired for de-pillaring of 2-A incline. A draft notification u/s 4(1) of the Act was published in the A.P. Gazette on 21-8-1989. The LAO awarded compensation at Rs. 7,500/-per acre.

11. The respondents filed claim statements in the Court and examined P.Ws.1 and 2 on their behalf and marked Exs.A1 to A8. The LAO examined R.Ws.1 to 3 and marked Exs.B.1 to B.3.

12. The lower Court enhanced the compensation from Rs. 7,500/- to Rs. 45,000/-per acre with solatium, additional market value, interest etc. The Court also awarded Rs. 10,000/- per acre towards sub-soil mineral rights.

A.S. No. 2756 of 2001

13. A draft notification u/s 4(1) of the Act was published in the A.P. Gazette dated 7-4-1989 for an extent of Ac.26-34 guntas of dry land situated in S.Nos.334 to 337. The LAO awarded compensation at Rs. 7,500/- per acre to the claimants through award No. 2/90 dated 28-12-1990. The claimants sought for a reference to the Civil Court u/s 18 of the Act. The said reference was registered as O.P. No. 24 of 1994 on the file of the Senior Civil Judge, Peddapalli.

14. The claimants after filing their claim statements adduced evidence through P.Ws. 1 and 2 and marked Ex.A1 on their behalf. The Singareni Collieries at whose instance the acquisition was made examined R.Ws.1 to 4 and marked Ex.B.1-certified copy of the award.

15. The lower Court enhanced the compensation from Rs. 7,500/- to Rs. 45,000/- with solatium, additional market value and interest etc. The Court also awarded Rs. 10,000/- towards compensation for subsoil mineral rights.

A.S.No.700 of 2002

16. This appeal arises from the order of the Senior Civil Judge, Peddapalli dated 19-3-2001 passed on a reference made by the LAO, Special Deputy Collector, Land Acquisition Unit, Singareni Collieries, Godavarikhani u/s 18 of the Act.

17. An extent of Ac. 15-25 guntas of dry land situated in S.Nos.350, 351 and 355 was acquired for de-pillaring of Godavrikhani No. 3 incline a draft notification u/s 4(1) of the Act was published in the A.P.Gazette on 29-2-1992. The LAO awarded compensation @ Rs. 11,500/- per acre for an extent of Ac. 12-6 guntas and @ Rs. 12,500/- per acre for an extent of Ac.3-19 guntas.

18. On a reference made by the LAO u/s 18 of the Act, the Sub-Court, Peddapalli, registered the same as O.P.No. 75 of 1995.

19. The claimants after filing their claim statements adduced evidence before the Civil Court by examining P.Ws. 1 to 3 and marked Exs.A. 1 to A.3 on their behalf. The Singareni Collieries Company Ltd., at whose instance the land was acquired examined R.Ws.1 to 4 and marked Exs.B.1 to B.3.

20. The lower Court enhanced the compensation to Rs. 60,000/- per acre for the entire land, with solatium, additional market value and interest. The Court also awarded Rs. 10,000/- towards compensation for subsoil mineral rights, Rs. 50,000/- towards compensation for the house and Rs. 1,050/- towards value of four trees.

A.S. No. 1273 of 2002

21. A draft notification u/s 4(1) of the Act was published in A.P.Gazette dated 6-9-1991 for acquisition of an extent of Ac.3-25 guntas of dry-cum-wet land situated in S.No. 404/D for de-pillaring of Godavarikhani 2-A incline. The LAO awarded compensation at Rs. 20,000/- per acre through award No. 5/93 dated 5-9-1993.

22. The claimants being not satisfied with the compensation awarded by the LAO requested for reference. The Senior Civil Judge, Peddapalli registered the reference as O.P.No. 76 of 1995.

23. The claimants filed their claim statements, examined P.W.1 and marked Ex.A.1. The Singareni Collieries Company Ltd., examined R.Ws.1 to 4 and marked Exs.B.1 to B.3.

24. The lower Court enhanced the compensation from Rs. 20,000/- to Rs. 60,000/- per acre. The Court also awarded Rs. 10,000/- towards sub-soil mineral rights and also awarded solatium, additional market value, interest etc.

25. The Singareni Collieries Company Ltd., being aggrieved by the judgments of the Civil Court preferred these appeals challenging their validity and legality. The appellant company seeks to reduce the compensation awarded by the Civil Court by confirming the awards passed by the LAO.

26. The respondents preferred cross objections covered by Cross Objection (SR) Nos. 1 55294, 57584, 55296 and 54629 of 2002 in AS. Nos. 2489, 2532, 2756 of 2001 and 1273 of 2002 respectively claiming compensation at rupees eight lakhs per acre in all the matters, irrespective of the distances of lands from each other.

27. Since the lands acquired through the above awards are for the purpose of mining operations of Singareni Collieries Company Ltd., and as the acquisitions are in respect of lands adjacent to each other and situated in the same Revenue Village, we are inclined to dispose of all the appeals through this common judgment.

28. The appellant is contending that the compensation awarded by the civil Court is exorbitant and that the civil Court without taking into consideration the sale transactions relating to the survey numbers situated in the immediate vicinity of the acquired lands has resorted to rely on a sale-deed covered by Ex. A.1 dated 18-7-1989 which relates to the land situated in a busy locality of Ramagundam Town. Therefore, the order of the civil Court is liable to be set aside.

29. The respondents being the claimants have been contending that since the lands acquired on behalf of the appellant are within the Municipal limits of Ramagundam Town and as there is so much potentiality for the said lands and as the LAO did not take into consideration the potentiality of the land and the market value as on the date of acquisition arbitrarily fixed the compensation at a very low rate, that they are entitled for more compensation than the amount awarded by the civil Court. Hence, the appeals are liable to be dismissed with costs.

30. In the light of the contentions of both parties, the point for consideration is:

Whether the claimants are not entitled for the compensation as fixed by the civil Court or as claimed and whether the orders of the Civil Court are liable to be set aside?

Point :

31. The LAO during the course of enquiry referred to as many as 458 sales pertaining to the years from 1988 to 1991. The appellant while relying on the sales referred in the award (Ex.B1), also relied on Ex.B.2-registered sale deed dated 29-4-1989. The claimants relied on Ex.A1-sale deed relating to an extent of guntas 11-38 sq.yds. alleged to be sold for a sum of Rs. 1,64,300/- which works out to Rs. 5,80,000/- per acre. The land covered by Ex.A.1 is situated in S.Nos.641 and 642 of Janagaon Village, which is admittedly very near to Sectors 1 and 2 Colonies of Ramagundam Town. The lands acquired under these notifications are situated towards northern side of the Railway track dividing Ramagundam Town with the lands in which the appellant-company is conducting the mining operations. The village plan filed by the respondents-claimants is clearly indicating that in between the acquired lands and Ramagundam Town there are Godavarikhani inclines i.e., the mines. Since the lands under acquisition are within the vicinity of the coal mines, there is no possibility for construction of houses in such lands. Therefore, there is no scope for appreciation in the value of these lands rapidly.

32. Before referring the legal position covering various aspects relating to land acquisition, we wish to refer the evidence adduced by both parties.

33. In O.P.No. 76 of 1995 the acquisition is of the year 1990 in respect of Ac.3-25 guntas of land situated in S.No. 404. The total extent of the said survey number is Ac. 14-13 guntas. The appellant previously acquired Ac. 10-28 guntas for mining purpose leaving only the land acquired under the present proceedings. Though P.W.1 being claimant No. 8 in the above O.P., deposed that he used to cultivate the acquired land by raising all sorts of commercial crops and vegetables, he did not produce any material in support of his contention regarding the raising of the crops, water source and the income he used to get from the land. P.W.1 did not produce any documentary proof regarding the value of the acquired land or the neighbouring lands and simply pleaded that the acquired land fetches the value of Rs. 8,00,000/- per acre.

34. Though the claimants contended that the LAO has not considered the sale transactions of higher value, they did not choose to mark any sale deeds in support of their contention that the neighbouring lands fetch more value than the value fixed by the LAO. The appellant-company contended before the Civil Court that there was no cultivation over the acquired lands and the claimants were not getting any income from those lands and it was suggested to P.W.1 that the market value of the acquired land during the relevant period was Rs. 20,000/-per acre.

35. Though P.W.2 was examined to prove the sale transaction covered by Ex.A.1, we have already observed that the sale covered by Ex.A.1 is not the relevant transaction to be considered by the Court for fixing the value of the acquired land since it is not in the immediate vicinity of the acquired land and it is in the busy locality of Ramagundam Town.

36. The respondents' witnesses were examined to prove that the land situated in S.No. 355 was sold @ Rs. 80,000/- per acre. The witnesses also mentioned that the Janagaon Village where the lands are situated is at a distance of 5 kms. from Godavarikhani, 12 kms. from Food Corporation of India, 10 kms. from NTPC and 15 kms. from Ramagundam Thermal Power Station. They also contended that there are no residential Colonies near the acquired lands. They have also stated that Janagaon Village Abadi is a separate village and Godavarikhani is a separate Township. They also mentioned that since some transactions are in respect of small extents of lands, the LAO did not take into consideration such sale transactions.

37. In O.P.No. 75 of 1995 the claimants examined P.Ws.1 to 3 to prove that the acquired land is situated in S.Nos.350, 351 and 355 fetches the market value @ Rs. 8,00,000/- per acre, but they did not place any documentary evidence to prove the said fact, except filing the very same document in O.P.No. 76 of 1995 marking it as Ex.A. 1. P.Ws. 1 to 3 examined on behalf of the claimants, though stated many things bloating the value of the acquired land, did not file any documents to prove that those lands were being cultivated by raising various commercial crops and vegetables, and they were getting so much income from the crops.

38. We have already observed that the sale covered by Ex.A1 relates to S.No. 641 situated at a far off place in a busy locality of Ramagundam Town and the value of the said land cannot be compared with the value of the lands acquired by the appellant.

39. The respondents, witnesses have given several details regarding location and nature of the acquired lands, the purpose for which they were acquired and the distances of various industries from the acquired lands.

40. In OP No. 24 of 1994 the claimants tried to impress upon the Court through oral evidence of PWs.1 and 2 that the acquired land situated in S.Nos.334 to 337 fetch the value of Rs. 8,00,000/- per acre, but they miserably failed to adduce any documentary

evidence to prove that those lands fetch the value as contended by them. The only document covered by Ex.B1 relied on by the claimants is in respect of an extent of 605 sq.yds. situated in S.No. 641 and the said land is at a far off place in the midst of the Town and the sale-price of the said land cannot be compared with the value of the land acquired by the appellant.

41. The appellant through its witnesses R.Ws.1 to 4 gave certain details regarding the location of the acquired lands and the land covered by Ex.A1 - sale deed, the distances of industries and others establishments from the acquired lands, the nature of the acquired lands and others details.

42. In the light of the evidence placed by both parties, it has to be tested whether the compensation awarded by the Civil Court is entitled to be confirmed or liable to be altered.

43. In OP No. 25 of 1994 the claimants contended that the acquired land of an extent of Ac.66-17 guntas situated in S.Nos.363, 367, 377, 378, 390 and 413 fetch the value of Rs. 8,00,000/- per acre and examined P.Ws.1 and 2, but they did not place any documentary evidence in support of their contention regarding the value of the land, except Ex.A8- sale deed relating to an extent of 605 sq.yards situated in S.No. 641, which is situated in a busy locality of Ramagundam Town which is far off from the acquired land. The value of the land covered by Ex.A8 cannot be adapted to the acquired land as it is not comparable to the land under the acquisition.

44. The appellant herein examined three witnesses as R.Ws.1 to 3 to give the details regarding the acquired land and also relied on Ex.B2 - sale deed dated 25-11-1987 for an extent of Ac.2.20 guntas situated in S.No. 815-A to prove that the acquired land fetches Rs. 6,500/- per acre.

45. In OP No. 22 of 1994 the claimants in order to prove that the acquired land of an extent of Ac.42-12 guntas situated in S.Nos.58, 60, 68, 72, 250, 251, 254, 86 and 87 fetch the value @ Rs. 8,00,000/- per acre adduced oral evidence through PWs.1 and 2, but they did not file any documents to prove the contentions raised by the claimants, except Ex.A1 - sale deed dated 11-7-1988 in respect of 605 sq.yds. situated in S.No. 641 which is at a far off place situated in busy locality of Ramagundam Town.

46. The appellant herein examined RWs.1 and 2 and relied on Ex.B2-sale deed to prove that the acquired land at the relevant period fetched Rs. 6,500/- per acre.

47. In the light of evidence adduced by the claimants and the appellant-company, we have no hesitation to hold that both parties did not adduce proper and sufficient documentary evidence in proof of their respective contentions regarding the value of the acquired lands.

48. At this juncture we wish to refer to the decisions cited by the learned Counsel for the appellant on various aspects relating to the acquisition of lands.

49. Regarding the reasonableness of the compensation and the norms required to be satisfied for fixing the compensation of the acquired lands, the Supreme Court in various decisions laid down certain principles.

50. In [Land Acquisition Officer and Sub-Collector, Gadwal Vs. Smt. Sreelatha Bhoopal and another](#), the Supreme Court while dealing with Section 23 of the Act held that it is now well settled legal position that small pieces of land cannot offer the same market value as when a large tract of land is purchased in open market by a willing and prudent purchaser. It is also a settled legal position that the Court has to put itself in the arm chair of a prudent purchaser and put the question to itself whether the land, in the given circumstances, would fetch the same market value is it likely to be determined by the Court when small piece of land would be offered for sale. The Court also held that award of the LAO is not evidence stricto sensu. But, with a view to do substantial justice the Court can look into it and consider the material collected therein. In the above decision, the Supreme Court while considering the value of the acquired land in 1981 fixed the compensation at Rs. 20,000/- per acre which was acquired for establishment of Bus Stand in Gadwal Town of Mahaboobnagar District, Andhra Pradesh.

51. In [Kanwar Singh and Others Vs. Union of India](#), the Supreme Court held that the amount of compensation for the land acquired depends on the market value of the land on the date immediately before the notification u/s 4 of the Act. The Supreme Court further observed that the awards in respect of acquisitions in the adjoining villages cannot be relied upon when those matters were either wrongly pursued or not actively pursued by the Land Acquisition Department concerned.

52. In [Shaji Kuriakose and Another Vs. Indian Oil Corpn. Ltd. and Others](#), the Supreme Court while dealing with Section 23 of the Act held that regarding adoption of comparable sales method certain factors viz., (1) that the sale must be a genuine one, (2) that the sale deed must have been executed at the time proximate to the date of issue of notification u/s 4 of the Act, (3) that the land covered by the sale must be in the immediate vicinity of the acquired land, (4) that the land covered by the sales must be similar to the acquired land, and (5) that the size of plot of the land covered by the sales be comparable to the land acquired, are required to be fulfilled and on fulfilment of those factors only the compensation can be awarded. If there is a dissimilarity in regard to locality, share, site or nature of land between the land covered by sales and the land acquired, it is open to the Court to proportionately reduce the compensation for the acquired land that what is reflected in the sales depending upon the disadvantages attached with the acquired land.

53. In [The Executive Director Vs. Sarat Chandra Bisoi and Another](#), the Supreme Court held that where there are no sales of comparable land, the capitalization method may be used to assess the annual income from the land which the owner has been deriving and

multiply the same with suitable multiplier. The Supreme Court further held that in order to determine the market value of the acquired land, the belting method can be adopted regarding the categorisation of the land into (1) land near national highway, (2) land lying alongside Gram Panchayath road and (3) land not bordering any road, since the market value of those lands would obviously be different. The Supreme Court also held that when the acquired land was in large tracts, and when the transactions relating to small pieces of land are placed and when there is no satisfactory evidence as to the location of the land covered by those transactions, the Court may adopt reasonable solution approach and bring the litigation to an end.

54. In [Kummari Veeraiah and Others Vs. State of A.P.](#), the Supreme Court held that when a large extent of land is available for house-sites and commands market for sale in bits, then a prudent owner, as a part of normal human conduct, would get a lay out prepared and approved from the competent authority and would offer the plots for sale. The Supreme Court also observed that the certified copies of the sale deeds are admissible in evidence as secondary evidence u/s 51A of the Act, but unless either the vendor or the vendee has been examined as a witness to testify not only the consideration paid, but also their specific knowledge and the circumstances in which the sale deed came to be executed, the sale deeds cannot be relied to determine the market value of the acquired lands.

55. In [State of Uttar Pradesh etc. Vs. Smt. Ram Kumari Devi etc.](#), the Supreme Court while dealing with Section 23 of the Act discussed about the mode of determination of the compensation and held that the burden is on the owner of the land to prove the prevailing market value on adduction of the evidence by the parties. The Supreme Court while commenting on the awarding of compensation on square feet basis observed that when vast land was offered for sale in the open market, no prudent man would have come forward to purchase that land on square feet basis. The mere accepting of sale deeds which were obviously brought into existence to inflate the market value amounts to grave error leading to failure of applying the acid tests mentioned above.

56. In [The Dollar Company, Madras Vs. Collector of Madras](#), also the Supreme Court while dealing with Section 23 of the Act held that the best evidence on the value of property is the sale of the very property to which the claimant is a party. The price paid by the owner recently represent an expression of market value, as bona fide evidence of value, subject to such matters as (1) the relationship of the parties, (2) the market conditions and the terms of sale, and (3) the date of sale.

57. In [Manipur Tea Co. Pvt. Ltd. Vs. Collector of Hailakandi](#), the Supreme Court while dealing with Section 23 of the Act held that the sale statistics relied on by the LAO are not a proof unless persons connected with the sale deeds and the documents also made part of the record are examined. Therefore, the sale statistics cannot ipso facto form a basis to determine the compensation. The award based on sale statistics without examining the persons connected with those sale deeds cannot form the basis for determining the

compensation.

58. In [Special Deputy Collector and another etc. Vs. Kurra Sambasiva Rao and others, etc.](#), the Supreme Court while considering the determination of compensation held that 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.

59. In [M.V.K. Gundarao Vs. Revenue Divisional Officer, \(L.A.O.\), Narasaraopet](#), the Supreme Court while dealing with Section 23 of the Act held that the burden is on the claimant to prove the prevailing market value as on the date of Section 4(1) notification and it is the duty of the Court to assess the prevailing market value applying pragmatic tests. The Court has to consider the evidence in the proper perspective whether a willing vendee would be prepared to purchase at the rates offered by a willing vendor in the open market when the lands are put to sale.

60. In [Parameshwari Devi \(dead\) by L.Rs. etc. Vs. Punjab State Electricity Board and Another](#), the Supreme Court held that it is the duty of the claimant to prove the sale deeds by adducing evidence either of vendor or vendee or attesting witness or passing of the consideration under the sale deed, to prove that the sale transactions are genuine transactions between the willing vendor and the willing vendee, that the lands under acquisition and the lands concerning sale or similarly situated and possessed of same or similar nature, advantages etc. The burden is always on the claimant and where the claimant did not make any effort to discharge the burden; rejection of the sale deeds produced by him in support of his claim of compensation would be proper.

61. In [P. Ram Reddy and Others Vs. Land Acquisition Officer, Hyderabad Urban Development Authority, Hyderabad and Others](#), the Supreme Court while dealing with the aspect regarding ineffective cross-examination of witnesses held that the Court is not obligated to accept the value mentioned through the evidence as the correct value of such land merely because the witnesses examined on behalf of the claimants have not been cross-examined or effectively cross-examined on behalf of the LAO.

62. In [Hookiyar Singh etc.etc. Vs. Special Land Acquisition Officer, Moradabad and another](#), the Supreme Court held that though the Court is time and again pointing out the apathy and the blatant lapse on the part of the LAOs to adduce evidence and also improper or ineffective or lack of interest on the part of the Counsel for the State to cross-examine the witnesses on material facts, it is the duty of the Court to carefully scrutinize the evidence and determine just and adequate compensation.

63. The learned Counsel for the respondents cited a decision of the Supreme Court in [Thakarsibhai Devjibhai and Others Vs. Executive Engineer, Gujarat and Another](#), wherein the Supreme Court held that though the total extent of the land acquired is larger area, each landowner's holdings are of small area. The High Court is not justified in

reducing the compensation on that ground.

64. The above legal position makes it very clear that the claimants have to establish through proper evidence as to what was the market value prevailing as on the date of, notification and the Court has to take into consideration the prevailing market value, the potentiality of the land and other aspects into consideration in arriving at a conclusion regarding fixing of reasonable compensation. But, unfortunately, both parties did not place sufficient material to consider as to what was the market value prevailing as on the date of notification. Therefore, we are constrained to take into consideration the location of the lands acquired, the development in the surrounding area which is situated in an industrial belt and also the potentiality of the land on account of the mining operations being conducted by the appellant in a vast area in that locality for fixing just and reasonable compensation. From the location of the acquired lands and other lands shown in the village map and the list of sales provided in the award of the LAO it can be reasonably concluded that there were sales to the effect that the lands fetched not less than Rs. 20,000/- per acre around the period of the earliest acquisition. Though there is no sufficient documentary evidence adduced by both parties reflecting the prevailing market value of the lands of immediate vicinity of the acquired lands as on the date of acquisition, the Court can visualize the situation from the surrounding circumstances for the purpose of awarding reasonable and just compensation to the claimants who are denied ownership over the acquired lands once for all.

65. It is an undisputed fact that in the surroundings of the acquired land there is hectic industrial activity of coal mining, electricity generation etc. It is also an undisputed fact that the industrial town Ramagundam is coming up with speed and growing day by day. Though the acquired lands are situated in the midst of the coal mines, it cannot be denied that the lands situated at some distance are fetching more value day by day and it cannot be said that there is no potentiality for the lands acquired by the appellant. It is also an undisputed fact that the lands acquired for the appellant are having sub-soil mineral i.e., coal and the appellant is extracting the ore by conducting mining operations. Since coal is a very valuable mineral, the lands in which the coal is available should reasonably fetch better value than the lands in which there are no reserves of coal. Though the Civil Court has erroneously taken into consideration the value referred in the sale deed pertaining to an extent of 605 sq.yds. situated in S.No. 641, the learned Senior Civil Judge after doing so much exercise came to a conclusion that the land reasonably fetches the value between Rs. 45,000/- to Rs. 60,000/-. After taking into consideration the totality of the circumstances and by keeping in view the potentiality of the lands, we are of the considered view that the compensation fixed by the Civil Court is just and reasonable and it does not warrant any interference by this Court. We are therefore inclined to confirm the orders of the lower Court regarding the awarding of compensation to the lands acquired from the claimants.

66. So far as the sub-soil mineral rights are concerned, it is an undisputed fact that the sub-soil mineral vests with the Government and the owner of the land is not entitled to

claim any right over the sub-soil mineral situated in his land. The argument of the learned Counsel for the respondents - claimants that had the land not been acquired, the respective owners of the lands would have acquired mining leases and would have earned lot of money by undertaking mining operations. Their hypothetical calculation made by the learned Counsel for the respondents cannot be taken into consideration for the purpose of fixing reasonable compensation to the acquired lands.

67. The learned Counsel for the appellant - company cited the following decisions of the Supreme Court and this Court on the aspect relating to sub-soil mineral rights while questioning the order of the Civil Court awarding Rs. 10,000/- per acre towards sub-soil mineral rights and contended that by virtue of Section 63 of the A.P. Telangana Land Revenue Act, the sub-soil mineral rights vest with the Government.

68. In [Bheemagari Bhaskar and others Vs. Revenue Divisional Officer, Bhongir, Nalgonda Dist. and others](#), a Division Bench of this Court while dealing with Sections 3 (b) of the A.P. State Estates (Abolition) Act, 1948 and Rule 12 (2A) of the A.P. Minor Mineral Rules held that the rights in mines and minerals vest with the State.

69. In *State of Orissa v. Union of India* 2001 (1) SCC 429 : AIR 2001 SC 410, the Supreme Court while dealing with Mines and Minerals (Regulation and Development) Act, 1957 held that the State is the owner of all the mines and minerals within its territory and the minerals vest with the State.

70. In [Amritlal Nathubhai Shah and Others Vs. Union Government of India and Another](#), a three Judge Bench of the Supreme Court held that the State is the owner of the mines and the minerals within its territory vest in it.

71. In [State of Andhra Pradesh Vs. Duvvuru Balarami Reddy](#), a larger Bench of the Supreme Court held that the grant of land in favour of an individual does not include sub-soil rights.

72. There cannot be any dispute about the said aspect and we are of the opinion that the Civil Court is not justified in awarding Rs. 10,000/- per acre towards compensation for the sub-soil mineral rights which we are inclined to set aside and hold that the respondents - claimants are not entitled to the compensation under the said head of "sub-soil mineral rights".

73. Before parting with the appeals, we wish to record our displeasure regarding the manner in which the Advocates who appeared for both parties in the lower Court conducted the proceedings and their failure to take the reasonable care which an Advocate is supposed to take in protecting the interest of the clients. The ambiguity created by them due to insufficient material made it so difficult for the Court to assess the correct and reasonable value of the land. We wish that the members of legal fraternity would make all efforts to rise to the expectation of the people and help the judiciary in administering justice to the satisfaction of one and all.

74. In the result AS Nos. 2532, 2576, 2756 of 2001 and 700 and 1273 of 2002 are allowed in part by setting aside the award of compensation of Rs. 10,000/- per acre towards sub-soil mineral rights and confirming the orders of the lower Court in all other respects. AS No. 2489 of 2001 is dismissed by confirming the order of the Civil Court. The Cross-Objections filed by the claimants are dismissed. Each party to bear its own costs.