

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 3478 OF 2022

Bharat Sanchar Nigam Limited

...Appellant(s)

Versus

M/s. Nemichand Damodardas & Anr.

...Respondent(s)

J U D G M E N T

M.R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Judicature at Bombay at Nagpur Bench in First Appeal No.1302 of 2009 by which the High Court has partly allowed the said appeal preferred by the original owners/original claimants and has enhanced the amount of compensation for the lands acquired mainly relying upon the prevailing Ready Reckoner rates of the land, the Bharat Sanchar Nigam Limited (BSNL) has preferred the present appeal.

2. That the lands owned by the respondents herein – original landowners situated at Yavatmal, Maharashtra were acquired by the

State Government under the provisions of the Land Acquisition Act for BSNL. The Land Acquisition Officer declared the award determining the total compensation @ Rs.14,33,703/- (at Rs.13.32 per sq. ft.). At the instance of the landowners, a reference was made to the Reference Court. The Reference Court enhanced the amount of compensation to Rs.21/- per sq. ft.

2.1 In a further appeal to the High Court at the instance of the original claimants, by the impugned judgment and order, the High Court has enhanced the amount of compensation to Rs.174/- per sq. ft. (more than 800% of the Reference Court compensation and about 1300% of the compensation awarded by the Land Acquisition Officer).

2.2 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court enhancing the amount of compensation to Rs.174/- per sq. ft., BSNL has preferred the present appeal.

3. Shri R.D. Agrawala, learned Senior Advocate appearing on behalf of BSNL has vehemently submitted that the High Court has seriously erred in enhancing the amount of compensation solely relying upon the prevailing Ready Reckoner rates. It is submitted that the sole basis for more than 800% increase by the High Court is the prevailing Ready Reckoner rates of land, which as such is not permissible as held by this Court in the case of **Jawajee Nagnatham Vs. Revenue Divisional**

Officer, Adilabad, A.P. and Ors., (1994) 4 SCC 595 and Krishi Utpadan Mandi Samiti, Sahaswan Vs. Bipin Kumar, (2004) 2 SCC 283.

3.1 Learned Senior Advocate appearing on behalf of the appellant – BSNL has further submitted that in the facts and circumstances of the case, no reliance could have been placed on the Ready Reckoner as PW3 – a Government Officer specifically admitted that the actual rates of transaction of sales in market are different from the rates mentioned in the Ready Reckoner and that the correct market price is not reflected from the Ready Reckoner. It is submitted that PW3 further specifically admitted that the Ready Reckoner was prepared only for collecting stamp duty. It is submitted that therefore, the High Court has seriously erred in enhancing the amount of compensation solely relying upon the Ready Reckoner prices of the area in question.

3.2 It is further submitted by the learned Senior Advocate appearing on behalf of the appellant – BSNL that in the present case, the High Court has relied upon and/or considered the Full Bench decision of the Bombay High Court in the case of **Shalini Vaman Godbole Vs. Special Land Acquisition Officer, Special Unit, Solapur and Ors., (2009) 5 Mah LJ 884** rather than not following the decisions of this Hon'ble Court in the case of **Jawajee Nagnatham (supra)** and **Krishi Utpadan Mandi**

Samiti, Sahaswan (supra), which are binding on all Courts of the country under Article 141 of the Constitution of India.

3.3 Making above submissions and relying upon the above decisions, it is prayed to allow the present appeal.

4. Shri Sachin Patil, learned counsel appearing on behalf of the State has adopted the submissions made by the learned Senior Advocate appearing on behalf of the appellant – BSNL and submitted that the High Court has committed a serious error in awarding such an exorbitant compensation.

5. Present appeal is vehemently opposed by Mrs. Kiran Suri, learned Senior Advocate appearing on behalf of original claimants. Mrs. Suri, learned Senior Advocate appearing on behalf of the original claimants has vehemently submitted that in the present case while enhancing the compensation amount to Rs. 174/- per sq. ft., the High Court has rightly relied upon the Government Resolution and the Ready Reckoner. It is contended that the value of the land mentioned in the Ready Reckoner is a statutory cost and even the Government has issued a Resolution that while determining the amount of compensation, the price/value mentioned in the Ready Reckoner is required to be taken into consideration.

5.1 It is submitted that in the present case, the original claimants have relied upon the Government Resolution dated 31.10.1994 as well as the

Ready Reckoner rates by examining the Assistant Town Planner as PW-4.

5.2 It is submitted that the Government Resolution dated 31.10.1994 makes it obligatory that on the date of the notification under Section 4 of the Land Acquisition Act, wherever, necessary, the capitalization method and/or the valuation as per the Ready Reckoner, whichever is higher, should be done at the time of market selection. It is submitted that the aforesaid Government Resolution provided the basis for the calculation of the market value for Ready Reckoner. It is submitted that Ready Reckoner is prepared after taking into consideration the geographical conditions of each area, major roads, railways, etc., as well as by inspecting the information of buying and selling transactions.

5.3 It is submitted that the Ready Reckoner is used for registering documents. The sale transactions cannot be for a lesser amount than the market price. It is submitted that however, the value of the land in the documents may be higher than the value proposed by the Ready Reckoner. It is submitted that a policy decision by the Government that the value/price mentioned in the Ready Reckoner can be considered for the purpose of determining the compensation for the lands acquired under the Land Acquisition Act is beyond the judicial review, more particularly, when the same is not under challenge.

5.4 It is submitted that the prices mentioned in the Ready Reckoner are after following the procedure as required under the Maharashtra Stamp (Determination of True Market Value of property) Rules, 1995. Relying upon the decision of this Court in the case of **Lal Chand Vs. Union of India and Anr., (2009) 15 SCC 769** (para 41), it is submitted that as observed and held by this Court, the procedure adopted by the Expert Committee constituted under the Stamp Act, law is a scientific and methodical assessment of market value, and, therefore, there is no reason why such rates should not be a relevant piece of evidence for determination of the market value.

5.5 Making the above submissions and relying upon the decision of the Bombay High Court in the case of **Shalini Vaman Godbole (supra)**, it is prayed to dismiss the present appeal.

6. Heard the learned counsel appearing for the respective parties at length.

7. At the outset, it is required to be noted that by the impugned judgment and order, the High Court relying upon the Ready Reckoner land prices of the area has enhanced the amount of compensation by 800% from Rs.21/- per sq. ft. to Rs. 174/- per sq. ft. The High Court has heavily relied upon the Government Resolution dated 31.10.1994 as well as the Ready Reckoner prices and the decision of the High Court in the case of **Shalini Vaman Godbole (supra)**. However, when decision of

this Court in the case of **Jawajee Nagnatham (supra)** and **Krishi Utpadan Mandi Samiti, Sahaswan (supra)**, which were binding, on whether while determining the compensation for the lands acquired under the Land Acquisition Act, the Ready Reckoner prices, which are for determination of the stamp duty can be considered or not, the High Court has not followed the aforesaid decisions of this Court, which were binding on the High Court under Article 141 of the Constitution of India. Therefore, High Court has seriously erred in not following the two decisions of this Court in the case of **Jawajee Nagnatham (supra)** and **Krishi Utpadan Mandi Samiti, Sahaswan (supra)**.

8. Whether the prices mentioned in the Ready Reckoner can be the basis for determining the compensation for the lands acquired under the Land Acquisition Act has been dealt with by this Court in the two decisions of this Court in the case of **Jawajee Nagnatham (supra)** and **Krishi Utpadan Mandi Samiti, Sahaswan (supra)**. In the case of **Jawajee Nagnatham (supra)**, this Court has observed and held that the amount of compensation for the lands under the Land Acquisition Act is determined by adopting the method of valuation namely, (1) opinion of experts; (2) the price paid within a reasonable time in bona fide transactions of purchase of the lands acquired or the lands adjacent to the lands acquired and possessing similar advantages; and (3) a number of years purchase of the actual or immediately prospective profits of the

lands acquired. It is observed that in determining the market value, the Court has to take into account either one or the other of the three methods to determine market value of the lands appropriate to the facts of a given case to determine the market value. Thereafter, this Court considered whether the Basic Valuation Register would form the foundation to determine the market value. While negating the same and accepting the view taken by the High Court that the entries under the Basic Valuation Register cannot form the basis to enhance the market value, it is observed and held in paragraph 5 as under:-

“5. The question, therefore, is whether the Basic Valuation Register is evidence to determine the market value. This Court in *Special Land Acquisition Officer v. T. Adhinarayan Setty* [AIR 1959 SC 429] in paragraph 9 held that the function of the Court in awarding compensation under the Act is to ascertain the market value of the land at the date of the notification under Section 4(1). The methods of valuation may be (1) opinion of experts (2) the price paid within a reasonable time in bona fide transactions of purchase of the lands acquired or the lands adjacent to the lands acquired and possessing similar advantages; and (3) a number of years purchase of the actual or immediately prospective profits of the lands acquired. Same was the view in *Tribeni Devi v. Collector of Ranchi* [(1972) 1 SCC 480]. It was reiterated in catena of decisions, vide, *Periyar and Pareekanni Rubbers Ltd. v. State of Kerala* [(1991) 4 SCC 195]. Therefore, it is settled law that in determining the market value, the Court has to take into account either one or the other three methods to determine market value of the lands appropriate on the facts of a given case to determine the market value. Generally the second method of valuation is accepted as the best. The question, therefore, is whether the Basic Valuation Register would form foundation to determine the market value. The Indian Stamp Act, 1899 provides the power to prescribe stamp duty on instruments,

etc. Entry 44 of List III, Concurrent List, of the VIIIth Schedule read with Article 254 of the Constitution empowers the State Legislature to amend the Indian Stamp Act, 1899. In exercise thereof all the State Legislatures including the Legislature of A.P. amended the Act and enacted Section 47-A empowering the registering officer to levy stamp duty on instruments of conveyance, etc., if the registering officer has reason to believe that the market value of the property, covered by the conveyance, exchange, gift, release of right or settlement, has not been truly set forth in the instrument, he may refuse registering such instrument and refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon. On receipt of such opinion, he may call upon the vendor as per the rules prescribed, to pay the additional duty thereon. If the vendor is dissatisfied, he has been given the right to file an appeal and further getting reference made to the High Court for decision in that behalf. Section 47-A would thus clearly show that the exercise of the power thereunder is with reference to a particular land covered by the instrument brought for registration. When he has reasons to believe it to be undervalued, he should get verified whether the market value was truly reflected in the instrument for the purpose of stamp duty; the Collector on reference could determine the same on the basis of the prevailing market value. Section 47-A conferred no express power to the Government to determine the market value of the lands prevailing in a particular area, village, block, district or the region and to maintain Basic Valuation Register for levy of stamp duty for registration of an instrument, etc. No other statutory provision or rule having statutory force has been brought to our notice in support thereof. Whether an instrument is liable for higher stamp duty on the basis of valuation maintained in the Basic Valuation Register, came up for consideration in *Sagar Cements Ltd. v. State of A.P.* [(1989) 3 Andh LT 677] B.P. Jeevan Reddy, J., as he then was, considered the question and held that the Government has unilaterally fixed the valuation of the lands, the Basic Valuation Register had no statutory foundation and therefore it does not bind the parties. Neither the Registrar nor the vendor is bound by it. The market value of the land for proper stamp duty has to be determined as per the law under Section 47-A itself. That view was followed by another learned Single Judge in *P.*

Sasidar v. Sub-Registrar [(1992) 1 Andh LT 49]. It is, therefore, clear that the Basic Valuation Register prepared and maintained for the purpose of collecting stamp duty has no statutory base or force. It cannot form a foundation to determine the market value mentioned thereunder in instrument brought for registration. Equally it would not be a basis to determine the market value under Section 23 of the Act, of the lands acquired in that area or town or the locality or the taluk etc. Evidence of bona fide sales between willing prudent vendor and prudent vendee of the lands acquired or situated near about that land possessing same or similar advantageous features would furnish basis to determine market value. The Division Bench followed, in support of its view a decision of another Division Bench in *Land Acquisition Officer v. Venkateswara Prasad* [A.S. No. 880 of 1980, decided on 11-11-1981] which also decided that Basic Valuation Register cannot be relied on to determine the market value. It would appear that in *Govt. of A.P. v. Sohan Lal* [(1988) 2 Andh LT 306] a Division Bench of that High Court, without noticing these two binding decisions, held that the Basic Valuation Register would form foundation to determine the market value and directed to determine the compensation on that basis. The entire controversy was considered by yet another Division Bench in *Vasireddi Bharata Rao v. Revenue Divisional Officer* [(1992) 1 Andh LT 591]. The Division Bench, after considering the case law disagreeing with *Sohan Lal* [(1988) 2 Andh LT 306] view as per incuriam, also reiterated that the Basic Valuation Register maintained by the registering authority has no statutory foundation to determine the market value and cannot form the base under Section 23(1) to determine the market value. This Court in *Gulzara Singh v. State of Punjab* [(1993) 4 SCC 245] held that mutation entries of the land transactions in the revenue records are not evidence unless the parties to the transactions have been examined in proof of documents. In *Director of Survey-cum-LAO v. Mohd. Ghouse* [(1985) 1 MLJ 116] relied on by Mr Ganguli, the Division Bench of Madras High Court, relying upon the instructions issued by the Government to determine the market value for the purpose of registration of the instrument under Section 47-A, held that it would form basis to determine the market value under Section 23 in an appropriate case, subject to proof of the market value. What

were the instructions issued by the Government and whether they had any statutory foundation, have not been stated by the Division Bench. If the broad proposition of law that under Section 47-A of Stamp Act such instructions could be issued, as contended for the appellant herein, as appears to be the view of the High Court, it is not correct law. As we have already noted, Section 47-A being local amendment, made by each State Legislature did not find any such statutory basis. Like A.P. Act, Tamil Nadu Act is also referable to transactions intra vivos and not as general guidelines. If they are based on evidence inter partes it would be consistent with Section 47-A. Accordingly we hold that the basic value of registration has no statutory base. It cannot form any basis to determine the market value of the acquired lands under Section 23 of the Act. The burden of proof is always on the claimant to prove, in each case the prevailing market value as on the date of notification published in the State Gazette under Section 4(1) of the Act with reference to the sale deeds of the same lands or neighbour's lands possessed of same or similar advantages and features executed between willing vendor and willing vendee or other relevant evidence in the reference court. The State did not file any appeal against the award of the reference court which itself is a matter gone in favour of the appellant. We do not find any justification to further enhance the market value.”

9. The aforesaid decision in the case of **Jawajee Nagnatham (supra)** has been subsequently followed in a subsequent decision of this Court in the case of **Lal Chand (supra)** and it is observed that the market value of the land under Section 23 of the Land Acquisition Act cannot be fixed on the basis of the rates mentioned in the Basic Valuation Registers' maintained for the purpose of collection of proper stamp duty. In that case, as the Reference Court determined the amount of compensation on the value of the land fixed by the District

Magistrate for stamp duty purposes, this court has observed and held that the same was erroneous.

As such, we are in complete agreement with the view taken in the aforesaid two decisions that the prices mentioned in the Ready Reckoner for the purpose of calculation of the stamp duty, which are fixed for the entire area, cannot be the basis for determination of the compensation under the Land Acquisition Act. It is required to be noted that in the present case, the Reference Court did consider the submission on behalf of the claimants to determine the market value on the basis of the Ready Reckoner. The Reference Court specifically refused to accept the same on appreciation of the deposition of PW-3. PW-3, a Government Officer specifically admitted that the Ready Reckoner was prepared for recovery of the proper stamp duty and the registration charges and that the actual rates of transaction of sales in market are different than the rates mentioned in the Ready Reckoner and that correct market prices cannot be reflected from the Ready Reckoner. Even PW-4 also specifically admitted in his deposition that the Ready Reckoner is prepared only for collecting stamp duty. The Reference court, therefore, rightly relied upon and followed the decisions of this Court in the case of **Jawajee Nagnatham (supra)** and **Krishi Utpadan Mandi Samiti, Sahaswan (supra)**.

10. Why the prices mentioned in the Ready Reckoner, which is basically for the purpose of collecting proper stamp duty and registration charges shall not be the basis for determination of the compensation for the lands acquired under the Land Acquisition Act is required to be considered from another angle also. It cannot be disputed that the rates mentioned in the Ready Reckoner are for the lands of the entire area and the uniform rates are determined with respect to different lands. In the case of **Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and Anr., (1988) 3 SCC 751**, this Court has laid down the broad principles to be followed in the case of determination of compensation, which are as under:-

“4. The following factors must be etched on the mental screen:

(1) A reference under Section 18 of the Land Acquisition Act is not an appeal against the award and the court cannot take into account the material relied upon by the Land Acquisition Officer in his award unless the same material is produced and proved before the court.

(2) So also the award of the Land Acquisition Officer is not to be treated as a judgment of the trial court open or exposed to challenge before the court hearing the reference. It is merely an offer made by the Land Acquisition Officer and the material utilised by him for making his valuation cannot be utilised by the court unless produced and proved before it. It is not the function of the court to sit in appeal against the award, approve or disapprove its reasoning, or correct its error or affirm, modify or reverse the conclusion reached by the Land Acquisition Officer, as if it were an appellate court.

(3) The court has to treat the reference as an original proceeding before it and determine the market value afresh on the basis of the material produced before it.

(4) The claimant is in the position of a plaintiff who has to show that the price offered for his land in the award is inadequate on the basis of the materials produced in the court. Of course the materials placed and proved by the other side can also be taken into account for this purpose.

(5) The market value of land under acquisition has to be determined as on the crucial date of publication of the notification under Section 4 of the Land Acquisition Act (dates of notifications under Sections 6 and 9 are irrelevant).

(6) The determination has to be made standing on the date line of valuation (date of publication of notification under Section 4) as if the valuer is a hypothetical purchaser willing to purchase land from the open market and is prepared to pay a reasonable price as on that day. It has also to be assumed that the vendor is willing to sell the land at a reasonable price.

(7) In doing so by the instances method, the court has to correlate the market value reflected in the most comparable instance, which provides the index of market value.

(8) Only genuine instances have to be taken into account. (Sometimes instances are rigged up in anticipation of acquisition of land.)

(9) Even post-notification instances can be taken into account (1) if they are very proximate, (2) genuine, and (3) the acquisition itself has not motivated the purchaser to pay a higher price on account of the resultant improvement in development prospects.

(10) The most comparable instances out of the genuine instances have to be identified on the following considerations:

(i) proximity from time angle,

(ii) proximity from situation angle.

(11) Having identified the instances which provide the index of market value, the price reflected therein may be taken as the norm and the market value of the land under acquisition may be deduced by making suitable adjustments for the plus and minus factors vis-à-vis land under acquisition by placing the two in juxtaposition.

(12) A balance sheet of plus and minus factors may be drawn for this purpose and the relevant factors may be evaluated in terms of price variation as a prudent purchaser would do.

(13) The market value of the land under acquisition has thereafter to be deduced by loading the price reflected in the instance taken as norm for plus factors and unloading it for minus factors.

(14) The exercise indicated in clauses (11) to (13) has to be undertaken in a common sense manner, as a prudent man of the world of business would do. We may illustrate some such illustrative (not exhaustive) factors:

<i>Plus factors</i>	<i>Minus factors</i>
1. smallness of size	1. largeness of area
2. proximity to a road	2. situation in the interior at a distance from the road
3. frontage on a road	3. narrow strip of land with very small frontage compared to depth
4. nearness to developed area	4. lower level requiring the depressed portion to be filled up
5. regular shape	5. remoteness from developed locality
6. level vis-à-vis land under acquisition	6. some special disadvantageous factor which would deter a purchaser
7. special value for an owner of an adjoining	

property to whom it
may have some very
special advantage

XXXXXXXXXX”

11. Thus, there may be various factors, which are required to be considered for determining the market value of the land. The market value of the land depends upon the location of the land; area of the land; whether the land is in a developed area or not; whether the acquisition is of a small plot of land or a big chunk of land and number of other advantageous and disadvantageous factors are required to be considered. Therefore, there cannot be the same market value for the different lands while determining the compensation for the lands acquired under the Land Acquisition Act. Therefore, the rates mentioned in the Ready Reckoner, which are basically for the purpose of collection of stamp duty and as observed hereinabove, which are the uniform rates for all the lands in the area, cannot be the basis for determination of the compensation for the lands acquired under the Land Acquisition Act. Therefore, the High Court has committed a serious error in enhancing the amount of compensation by 800% from Rs. 21/- per sq. ft. to Rs. 174/- per sq. ft. relying upon and/or considering the rates mentioned in the Ready Reckoner.

12. Now, so far as the reliance placed upon the Government Resolution dated 31.10.1994 by the claimants as well as the High Court is concerned, apart from the fact that the same is contrary to the law laid down by this Court in the aforesaid two decisions, what is mentioned in the said Government Resolution is that the Ready Reckoner is scientifically prepared by taking into account the geographical conditions of each area, major roads, railways, etc., as well as by inspecting the information of buying and selling transactions and that the Ready Reckoner rates are based on the talukas in rural areas and the urban areas in different parts of the city.

As observed hereinabove, there cannot be a uniform market value of the land for the purpose of determination of the compensation for the lands acquired under the Land Acquisition Act. As observed herein above, the market value of the different lands vary from place to place and it depends upon various factors as observed hereinabove.

13. In view of the above and for the reasons stated above, present appeal succeeds. The impugned judgment and order passed by the High Court is hereby quashed and set aside and the judgment and order passed by the Reference Court determining the compensation @ Rs.21/- per sq. ft. is hereby restored.

Present Appeal is Allowed accordingly. However, in the facts and circumstances of the case, there shall be no order as to costs.

.....J.
[M.R. SHAH]

NEW DELHI;
JULY 11, 2022.

.....J.
[B.V. NAGARATHNA]