SUPREME COURT OF INDIA

Spl.Land Acquisition Officer

Vs.

Karigowda

C.A.No.3838 of 2010

(R.V. Raveendran and Swatanter Kumar JJ.)

26.04.2010

JUDGEMENT

SWATANTER KUMAR, J.

1. Leave granted.

2. All the above appeals under Article 136 of the Constitution of India raise a common question of law based on somewhat similar facts and are directed against different judgments of the Karnataka High Court and the judgment of the Principal Civil Judge (Senior Division) and JMFC, Srirangapatna (hereinafter referred to as the "Reference Court").

3. Civil Appeals arising out of SLP (C) Nos. 20767 of 2008 and 21730 of 2008 are directed by the Special Land Acquisition Officer (for short the `SLAO') and the Managing Director Irrigation Board (for short the `Board') respectively, against the judgment and order dated 23rd January, 2008 passed

by the High Court in MFA No. 8544 of 2007, whereby the High Court enhanced the compensation of the acquired land to Rs.5,00,000/- per acre for the wet land (garden land).

4. Civil Appeals arising out of SLP (C) Nos. 31096-31109 of 2009 are directed against the judgment of the High Court dated 22nd February, 2008 in MFA Nos. 6924 of 2007 (LAC) C/W Nos. 6925/2007, 7289/2007, 7290/2007, 7291/2007, 7292/2007, 7294/2007, 8541/2007, 8543/2007, 8545/2007, 8546/2007, 8549/2007, 8551/2007 and 8553/2007 (LAC), whereby the High Court while relying upon its judgment in the earlier cases granted the compensation at a sum of Rs.5,00,000/- per acre for wet land (garden land) and Rs.2,53,750/- per acre for dry land.

5. Appeal arising out of SLP (C) No.31169 of 2008 is directed against the judgment of the Reference Court dated 16th March, 2007 in LAC No. 219/2006, vide which the learned Court granted compensation at Rs.2,92,500/- per acre in respect of wet lands (garden land).

6. In other words, we will be dealing with the above appeals as well as other connected appeals, relating to the same acquisition, preferred by the State against the judgment of the High Court as well as that of the Reference Court. At the very outset, we may also notice that objection was raised with regard to the maintainability of the appeal against the judgment passed by the Reference Court.

7. Simple but an interesting question of law that falls for consideration of the Court in the present appeals, relates to the ambit and scope of Section 23 of the Land Acquisition Act, 1894 (for short `the Act') - whether, manufacturing or commercial activity carried on by the agriculturist, either himself or through third party, as a continuation of the agricultural activity, that is, using the yield for production of some other final product can be the basis for determining the fair market value of the acquired land, within the parameters specified under Section 23 of the Act, in the facts of the present case?

8. The learned counsel appearing for the parties, have addressed varied arguments in support of their respective cases while primarily focusing their submissions on the above-referred question of law.

9. It will be appropriate to refer to the facts giving rise to the present appeals at the very outset. As the facts in all other connected appeals are more or less similar, thus, it will not be necessary for us to refer to the facts of each case in detail. For the purposes of brevity and in order to avoid repetition, we will be referring to the facts in the civil appeals arising from SLP(C) Nos. 20767/2008 and 21730/2008.

10. The respondents in these appeals are the owners of the lands varying between 2 to 48 guntas (total acquired land measured 146 acres and 7 guntas relating to nearly 419 claimants) situated in

Village Sanaba, Chinakurali Hobli, Pandavapura. These lands got submerged under the backwaters of Tonnur tank in the year 1993 due to construction of Hemavathi Dam. The water from the dam which was canalized to the tank resulted in submerging of the land belonging to different respondents. The physical possession of the land, belonging to the owners was taken on or about 24th October, 1996 and 26th December, 1999 respectively. However, the notification under Section 4(1) of the Act came to be issued on 4th April, 2002. The crops belonging to the owners were damaged. The SLAO passed an award dated 28th August, 2003, fixing the market value of the wet lands at the rate of Rs.90,640/- per acre and for dry land at the rate of Rs. 37,200/- with statutory benefits. Other awards were made by the SLAO on different dates.

11. Aggrieved by these awards passed by the SLAO, the claimants sought reference to the Civil Court for determination of the compensation.

The Reference Court vide its judgment and award dated 16th March, 2007 enhanced the compensation payable to the claimants to Rs.2,92,500/- per acre for the wet lands (garden land). In other cases Rs.1,46,250/- for dry land (lightly irrigated) and Rs.1,20,000/- for dry land (without mulberry crop) were awarded. This compensation was awarded with other statutory benefits. Still, the claimants felt dissatisfied and preferred appeals before the High Court. These appeals were disposed off by the High Court vide its judgment dated 23rd January, 2008, enhancing the compensation payable to the claimants at the rate of Rs. 5,00,000/- per acre for wet/garden land (in other cases) Rs.2,53,750/- per acre for dry lands. The High Court also awarded interest on enhanced compensation from the date of their submergence in the backwaters of Tonnur Tank. Aggrieved by the judgment of the High Court, the SLAO on behalf of the Government filed the present appeals against its judgment.

12. Against the judgment of the Reference Court, directly an appeal had been filed by the Board before this Court. This appeal arises from SLP (C) No. 31169 of 2008, wherein the judgment of the Reference Court, granting enhancement of the awarded compensation, in view of the judgment of the High Court, has been challenged. Usefully, it can also be noticed at this stage itself, that when the claimants had filed appeals for further enhancement before the High Court in other matters, the State Government had neither filed any appeal against the judgment of the Reference Court nor any cross objections. This fact has duly been noticed by the High Court in the judgment under appeal. The challenge to the judgment of the High Court is primarily on the ground that there was no evidence on record before the High Court which would justify enhancement of compensation by more than five times to the compensation awarded by the Collector. The findings of the High Court besides being based upon no evidence are contrary to the very spirit of the provisions of Section 23 of the Act. The contention, inter alia, raised is that the judgment of the High Court is erroneous and contrary to law as the High Court could not have taken into consideration the ultimate manufactured product i.e. silk thread from silk cocoon in contra-distinction to the agricultural product i.e. mulberry crop in determining the fair market value of the land. In the submission of the appellant, another pure question of law which has been raised is that the High Court could not have granted interest on the enhanced compensation, from the date the land belonging to the claimants submerged in the backwaters of Tonnur Tank, as such benefit in terms of Section 23(1A) and Section 23(2), can

only be granted from the date of notification issued under Section 4 of the Act.

13. Another contention raised on behalf of the appellant is that the High Court has allowed a uniform enhanced compensation to be paid to the claimants without drawing any distinction between wet and dry lands.

Such findings of the Courts below suffer fro

m a palpable error apparent on the face of the record and the impugned judgment is thus liable to be set aside. With reference to another ancillary legal issue, it has been emphasized on behalf of the appellants, that the claimants do not have any license as required under Section 4 of the Mysore Sales (Control) Act, at least none was produced before the Reference Court and thus the compensation awarded on the alleged ground, that they were carrying on the activity of sericulture resulting in manufacture of silk thread ought not to be the foundation for grant of compensation.

14. According to learned counsel for the respondents-claimants, the Court below and the High Court have correctly appreciated the evidence and taken the view that the crops grown by claimant are shown as Mulberry crops and the documentary evidence clearly shows that about 250 to 400 silk cocoon clusters can be obtained in one crop in wet land. 100 silk cocoon clusters weigh about 45 to 50 kgs. in wet lands and 30 to 35 kgs. in other lands depending upon rain. The average price of the silk cocoons per kg. would be Rs. 100/- to Rs.150/-. Karigowda, PW-1 had submitted these figures and the Expert report, particularly, Exh. P.9 and P.10 showing the average yield of silk cocoons per crop. The Reference Court, therefore, rightly took into consideration the evidence and computed the income after deducting 50 per cent of the income towards cost of cultivation as per the judgment of this Court in State of Gujarat & Ors. vs. Rama Rana and Ors. [AIR 1997 SC 1845]. While applying the capitalization method and multiplier of 10, the Reference Court had granted compensation to the claimants at Rs. 2,92,500/- for the wet land (garden land) which was enhanced to Rs. 5,00,000/- by the High Court. According to the respondent-claimants, there was sufficient evidence on record including the expert evidence to ignore the method of sale statistics and determine compensation by applying the capitalization method.

15. As is evident from the above stated facts, the principal controversy between the parties is with regard to the method adopted for computation of compensation payable to the claimants and the quantum thereof. The appellant has raised the argument that the method of computation adopted by the Reference Court as well as the High Court is impermissible in law. The Court cannot take into consideration the commercial activity which may result from, and be indirectly incidental to, the agricultural activity particularly when both of them are carried on independent of each other. This being the main controversy, it will be necessary for us to refer to the methodology adopted by the Reference Court as well as the High Court while awarding the compensation impugned in the present appeals.

16. We have already indicated that we would be referring to the facts of the two appeals except

where it is necessary to refer to particular facts of another appeal. The Reference Court as well as the High Court noticed that the State should be fair and reasonable in compensating the uprooted agriculturists as well as the fact that no sale instances from Village Sanaba were available prior to 2002, though sale statistics of adjoining villages were produced before the Court. In this backdrop, they awarded the compensation on the basis of capitalization method and discussion in that regard can usefully be reproduced at this stage.

(Reference Court) "13. Keeping the evidence of P.W.1 in mind, I have gone through the documents produced by the claimant who got marked RTC as per Ex. P.2 to P.7, award Thakthe as per Ex.P.8, yield notification and price list of Mulberry crop as per Ex.P.9 and P.10 and estimation as per Ex.P.11.

On perusal of the documents relied by the claimant, it is noticed that, in the RTC extracts, the nature of crops being grown by the claimant is shown as Mulberry. The production of RTC Extracts as per Ex. P.2 to P.7 supports the say of PW.1 with regard to growing of mulberry crops over the lands in question. Further the production of Ex.P.9 and P.10 goes to show that, during the year 1999-2001, 4-5 Mulberry crops are being grown in one acre of land. It is clear from these documents that, about 250 to 400 cocoons can be obtained in one crop in wet lands. 100 silk cocoons used to weigh about 45 to 50 kgs in wet lands and 30 to 35 kgs. in lands which are depending upon rains. Further, in the year 2001-2002, the average yield in a wet land would be 250 to 300 silk cocoons per crop. 100 silk cocoons used to weigh 50 to 55 kgs. The average 1 price of silk cocoons per kg. would be Rs. 100/ to Rs. 150/-.

14. Looking to the evidence of PW.1 and the contents of Ex.P.2 to P.10, it is clear that, the claimant used to grow minimum 4 mulberry crops in the lands submerged under Tonnur Tank.

Further in the award Thakthe itself that, the LAO has admitted regarding the growing of Mulberry crop in the lands acquired by him. The documents i.e., Ex.P.9 & 10 are the letters issued by Assistant Director of Sericulture in favour of Assistant Executive Engineer, No. 24 Sub- Division, Pandavapura and in favour of Advocate for claimants. Both, these documents i.e., Ex.P.9 and P.10 contain the average yield of silk cocoons per crop and average price of silk cocoons per kg. As such, as per the contents of Ex.P.9 and P.10 a farmer would get a minimum of 250 to 400 silk cocoons per crop. Further, it is also clear that, a farmer would grow a minimum of 4 to 5 Mulberry crops in a year in wet lands. Hence, I deem it proper to take into consideration 4 Mulberry crops in a year so as to determine the market value in respect of wet lands in the case on hand on the basis of capitalization method. As such, if we take average yield of silk cocoons per crop on the basis of Ex.P.9 and P.10, it comes to about 325 silk cocoons per crop. Then, if we take the same into consideration, then the total yield per acre per year out of 4 Mulberry crops, it comes to about 1300 silk cocoons per year per acre. If 100 silk cocoons used to weigh 45 kgs., then 1300 silk cocoons would weigh about 585 kgs. per acre. So it is clear that an average of 585 kgs. of silk cocoons could be grown, out of 4 crops in a year. As such, if we take minimum price of the cocoons per kg. i.e. Rs.

100/- as per Ex.P.9 and 1 P.10. Then, it comes to Rs. 58,500/- per acre per year. If we deduct 50% of the income, towards costs of cultivation as per the ruling reported in AIR 1997 S.C. page 1845, it comes to Rs. 29,250/- which shall be multiplied by 10 to arrive the market value of the lands in which the Mulberry crop was being grown. As such, if we multiply an amount of Rs. 29,250/- by, it comes to Rs. 2,92,500/- which is to be determined as the market value of the lands in question of claimant per acre. Hence, I determined the market value of the lands in question at Rs. 2,92,500/- per acre."

17.Not only affirming but while further enhancing the compensation, the High Court held as under :- "6. As to the number of mulberry crops grown in the said land, the Reference Court has observed at Paragraph-14 of the impugned Judgment that as could be seen from Exs. P9 and P10, the claimant was growing maximum of 6 mulberry crop in a year. Despite making this observation, the Reference Court has taken only four crops a year, which is the minimum.

Therefore, as rightly submitted by the learned counsel for the appellant, the Reference Court ought to have taken at least 5 crops in a year which is average of minimum and maximum of the number of crops. Further, it is not in dispute that the claimant was getting 325 silk cocoons from each of the crops. Further, though the evidence is to the effect that, 100 cocoons weigh 50 kilograms, the Reference Court took 45 kilograms as the weight of 100 cocoons.

Therefore, the contention of the learned counsel for the appellant, that the learned Reference Court ought to have taken 50 kgs. as weight of 100 cocoons deserves our acceptance.

7. Further, though

Ex.P.10 price list reveals that the price of 1 kilogram of cocoons was from Rs. 100 to 150/-, the Reference Court committed error in taking the minimum price Rs.100/-. In our view, it ought to have taken the average of minimum and maximum prices i.e. Rs.125/- per kilogram.

If 5 mulberry crops per year and 325 cocoons per crop are taken and if weight of 100 cocoon is taken at Rs. 50 kilograms then per acre yield of cocoons in a year in terms of weight comes to 812.5 kilogram which may be rounded to 800 kilograms.

Further, if the price per kilogram of cocoons is taken at Rs. 125/- the annual gross income per acre of land under acquisition comes to Rs. 1,00,000/- (one lakh). If 50% of this income is deducted towards the cost of sericulture, the net annual income from sericulture comes to Rs. 50,000/- per acre. By multiplying this amount with the multiplier `10' we get the market value at the rate of Rs. 5 lakhs per acre, to which, in our opinion, the appellant-claimant is entitled and therefore, we hereby award the same in his favour."

18.In SLP (C) No. 21730 of 2008, the High Court gave a somewhat further elaborate reasoning in coming to the same conclusion of enhancing the rate to Rs. 5,00,000/- per acre.

"5. PW-1 has stated in his evidence that he used to grow maximum of 6 crops of mulberry 1 plants in the land under acquisition for the purpose of feeding the silk worms. Further in Ex.P.9 (which is referred to; as Ex.P.8 in the evidence of PW.1) it is clearly mentioned at Sl. No.s. 81 and 82 that the claimant Karigodwda was growing mulberry crop in the land under acquisition to the entire extent of 37 guntas for the purpose of sericulture. This document is not disputed by the respondent-SLAO. Therefore, the contention of the learned AGA that the very fact that the claimant was doing sericulture in the land under acquisition by growing mulberry crop has not been established by adducing adequate evidence cannot be accepted.

6. As to the number of mulberry crops grown in the said land, the Reference Court has observed at Paragraph -14 of the impugned Judgment that as could be seen from Exs.

P.9 and P.10, the claimant was growing maximum of 6 mulberry crop in a year.

Despite making this observation, the Reference Court has taken only four crops a year, which is the minimum. Therefore, as rightly submitted by the learned counsel for the appellant, the Reference Court ought to have taken at least 5 crops in a year which is average of minimum and maximum of the number of crops. Further, it is not in dispute that the claimant was getting 325 silk cocoons from each of the crops. Further, though the evidence is to the effect that, 100 cocoons weigh 50 kilograms, the Reference Court took 45 kilograms as the weight of 100 cocoons.

Therefore, the contention of the learned counsel for the appellant, that the learned Reference Court ought to have taken 50 1 kilograms as weight of 100 cocoons deserves our acceptance.

7. Further, though Ex.P.10 price list reveals that the price of 1 kilogram of cocoons was from Rs. 100 to 150/- the Reference Court committed error in taking the minimum price Rs.100/-. In our view, it ought to have taken the average of minimum prices i.e. Rs. 125/- per kilogram. If 5 mulberry crops per year and 325 cocoons per crop are taken and if weight of 100 cocoon is taken at Rs. 50 kilograms then per acre yield of cocoons in a year in terms of weight comes to 812.5 kilogram which may be rounded to 800 kilograms. Further, if the price per kilogram of cocoons is taken at Rs. 125/- the annual gross income per acre of land under acquisition comes to Rs. 1,00,000/- (one lakh). If 50% of this income is deducted towards the cost of sericulture, the net annual income from sericulture comes to Rs.50,000/- per acre.

By multiplying this amount with the multiplier `10' we get the market value at the rate of Rs. 5 lakhs per acre, to which, in our opinion, the appellant-claimant is entitled and therefore, we hereby award the same in his favour."

Scope of the statutory scheme for awarding the compensation under the provisions of the Act.

19.The challenge by the appellant-State is primarily based upon the permissible methodology which can be adopted by a court of law while granting fair market value of the land and the admissible quantum 1 thereof. In order to examine the merit of the contentions raised before us, particularly in this regard, it would be necessary to examine the scheme of the Act.

20.It has been held that the provisions of the Act are self-contained and it is a Code in itself providing for a complete procedure and steps which are required to be taken by the authorities concerned, for acquisition of land and payment of compensation. Part II and Part III of the Act deal with this aspect. Part II commences with a mandate that the appropriate authority shall issue a notification in terms of Section 4 of the Act, whereafter objections for acquisition are invited by the Collector and he shall conduct an inquiry in accordance with law.

Having disposed off the objections after hearing the concerned parties, the Collector is expected to make an award. The possession of the acquired land has to be taken in accordance with the provision of the Act. Part III deals with the procedure of making a reference to the Court of specified jurisdiction and the procedure to be adopted thereupon. It also spells out what factors are to be taken into consideration by the Court and what should be ignored while determining the compensation. It is a compulsive acquisition and the lands are acquired without the voluntary action or consent of the land 1 owners as they are left with no choice. The legislature in its wisdom has laid down the procedures and the guidelines which have to be adopted by the authorities concerned and subsequently by the Court of competent jurisdiction in regard to the acquisition of land and payment of compensation thereof. It is expected of the State to pay compensation expeditiously. Thus, it is obligatory on the part of the Court to follow the legislative intent in exercise of its judicial discretion. The legislative intent is of definite relevancy when the court is interpreting the law. Keeping in view the scheme of the Act, it will not be appropriate either to apply the rule of strict construction or too liberal construction to its provisions. The Act has a unique purpose to achieve, i.e. fulfillment of the various purposes (projects) to serve the public interest at large, for which the land has been acquired under the provisions of this Act by payment of compensation. The power of compulsive acquisition has an inbuilt element of duty and responsibility upon the State to pay the compensation which is just, fair and without delay. Thus, it will be appropriate to apply the rule of plain interpretation to the provisions of this Act.

21.We may notice that Part III provides for procedure and rights of the claimants to receive compensation for acquisition of their land and also 1 states various legal remedies which are

available to them under the scheme of the Act. Under Section 18 of the Act, the Reference Court determines the quantum of compensation payable to the claimants.

Section 23 provides guidelines, which would be taken into consideration by the court of competent jurisdiction while determining the compensation to be awarded for the acquired land. Section 24 of the Act is a negative provision and states what should not be considered by the court while determining the compensation. In other words, Sections 23 and 24 of the Act provide a complete scheme which can safely be termed as statutory guidelines and factors which are to be considered or not to be considered by the Court while determining the market value of the acquired land. These provisions provide a limitation within which the court has to exercise its judicial discretion while ensuring that the claimants get a fair market value of the acquired land with statutory and permissible benefits. Keeping in view the scheme of the Act and the interpretation which these provisions have received in the past, it is difficult even to comprehend that there is possibility of providing any straitjacket formula which can be treated as panacea to resolve all controversies uniformly, in relation to determination of the value of the acquired land. This essentially must 1 depend upon the facts and circumstances of each case. It is settled principle of law that, the onus to prove entitlement to receive higher compensation is upon the claimants. In the case of Basant Kumar and Ors. v. Union of India and Ors. [(1996) 11 SCC 542], this Court held that the claimants are expected to lead cogent and proper evidence in support of their claim. Onus primarily is on the claimant, which they can discharge while placing and proving on record sale instances and/or such other evidences as they deem proper, keeping in mind the method of computation for awarding of compensation which they rely upon. In this very case, this Court stated the principles of awarding compensation and placed the matter beyond ambiguity, while also capsulating the factors regulating the discretion of the Court while awarding the compensation. This principle was reiterated by this Court even in the case of Gafar v. Moradabad Development Authority [(2007) 7 SCC 614] and the Court held as under:

"As held by this Court in various decisions, the burden is on the claimants to establish that the amounts awarded to them by the Land Acquisition Officer are inadequate and that they are entitled to more. That burden had to be discharged by the claimants and only if the initial burden in that behalf was discharged, the burden shifted to the State to justify the award."

1 Thus, the onus being primarily upon the claimants, they are expected to lead evidence to revert the same, if they so desire. In other words, it cannot be said that there is no onus whatsoever upon the State in such reference proceedings. The Court cannot lose sight of the facts and clear position of documents, that obligation to pay fair compensation is on the State in its absolute terms. Every case has to be examined on its own facts and the Courts are expected to scrutinize the evidence led by the parties in such proceedings.

22. At the cost of some repetition, we may notice that the provisions of Sections 23 and 24 of the Act have been enacted by the Legislature with certain objects in mind. The intention of the Legislature is an important factor in relation to interpretation of statutes. The statute law and the case law go side by side and quite often the relationship between them is supplementary. In other

words, interpretation is guided by the spirit of the enactment. Interpretation can be literal or functional. Literal interpretation would not look beyond litera legis, while functional interpretation may make some deviation to the letter of the law. Unless, the law is logically defective and suffers from conceptual and inherent ambiguity, it should be given its literal meaning. Where the law suffers from ambiguity, it is said 2 "interpretation must depend upon the text and context. They are the basis of the interpretation. One may well say that if the text is the texture, context is what gives it colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the context. A statute is best interpreted when we know why it was enacted." [Reserve Bank of India v. Peerless General Finance and Investment Co. Ltd. & Ors. : (1987) 1 SCC 424].

23.The principle of construction of law is stated by Justice Holmes as under :- "You construe a particular clause or expression by construing the whole instrument and any dominant purposes that it may express. In fact, intention is a residuary clause intended to gather up whatever other aids there may be to interpretation besides the particular words and the dictionary."

(Principles of Statutory Interpretation by Justice G.P. Singh, Page 15, 9th Edition 2004, Wadhwa & Co., Nagpur) 24.Where a statutory provision confers rights and also states mandatory or implied conditions which would have to be satisfied before the claim, can culminate into a relief, such considerations or conditions are relevant for the purposes of interpretation as well. A power conferred 2 by the statute, often contains an express condition for its exercise and, in absence of, or in addition to the express condition, there are also implied conditions for exercise of power. Exercise of statutory power in breach of express or implied conditions will be illegal, if the conditions breached are mandatory. This principle, to a large extent, is applicable to exercise of rights arising from beneficial legislations, when an owner claims benefits under statutory provisions, it is for him to show that what is contemplated under the conditions attached thereto has been satisfied, particularly when such legislative intent is clear from the bare reading of the provisions. Like the cases in hand, it is for the claimants to show that, to award the compensation payable under the statutory provisions, they have brought on record, evidence to satisfy the criterion and conditions required to be fulfilled for such a claim.

25.The provisions with which we are concerned primarily are the provisions of the statute which are coupled with obligations and limitations specified in them. The power is vested in the Collector to grant compensation; in courts to enhance the same in favour of the claimants whose lands are acquired, in case they are aggrieved. But, this power has to be exercised while keeping in mind the settled 2 guidelines and parameters stated in Sections 23 and 24 of the Act. It will, thus, not be permissible for the authorities to go beyond the scope and purview of the provisions or the pre-requisites stated in these provisions for determination of the fair market value of the land. The statutory law as well as the judgments pronounced by the courts has consistently taken the view that compensation has to be determined strictly in accordance with the provisions of Sections 23 and 24 of the Act. The matters which are to be governed by the terms of Section 24 of the Act cannot be taken into consideration by extending discretion referable to the matters which should be considered by the courts in terms of Section 23 of the Act. To put it in another way, the court should apply the

principle of literal or plain construction to these provisions, as the Legislature in its wisdom has not given to the court absolute discretion in matter relating to awarding of compensation but has intended to control the same by enacting these statutory provisions.

26.About the principle of plain meaning, it has been observed more than often, that it may look somewhat paradoxical that plain meaning rule is not plain and requires some explanation. The rule, that plain words require no construction, starts with the premise that the words are plain, which is itself a conclusion reached after construing the words. It is not 2 possible to decide whether certain words are plain or ambiguous unless they are studied in their context and construed. [Refer - D. Saibaba v. Bar Council of India & Anr.: AIR 2003 SC 2502].

27.The true import of the rule of plain meaning is well brought out in an American case Hutton v. Philips [45 Del 156], where Judge Pearson, after reaching his conclusion as to the meaning of the statutory language said :

"That seems to me a plain clear meaning of the statutory language in its context. Of course, in so concluding I have necessarily construed or interpreted the language. It would obviously be impossible to decide that language is `plain' (more accurately that a particular meaning seems plain) without first construing it. This involves far more than picking out dictionary definitions of words or expressions used. Consideration of the context and setting is indispensable properly to ascertain a meaning. In saying that a verbal expression is plain or unambiguous, we mean little more than that we are convinced that virtually anyone competent to understand it and desiring fairly and impartially to ascertain its significance would attribute to the expression in its context a meaning such as the one we derive, rather than any other; and would consider any different meaning by comparison, strained, or far- fetched, or unusual or unlikely."

There are certain provisions which are capable of being given general description. Normally such provisions have two concepts - factual situation and the legal consequences ensuing therefrom. As already noticed, it is for the claimants to ascertain as a matter of fact - location, potential and quality of land for establishing its fair market value. After this fact is ascertained, its legal consequences i.e. awarding of compensation in terms of Sections 23 and 24 of the Act, the question before court of law is, whether the factual situation before it falls within the general description and principles in the statute. [Principles of Statutory Interpretation by Justice G.P. Singh, Page 51, 9th Edition 2004].

28. In the light of these principles now we may advert to the language of Sections 23 and 24 of the Act. The provision open with the words, that in determining the amount of compensation to be awarded for land acquired under the Act, the court shall take into consideration the stated criteria and in terms of Section 23(1-A), the claimants would be entitled to additional amount @ 12 % per annum on such market value for the period commencing on and from the date of the publication of the notification under Section 4, to the date on which the Award is made by the Collector or possession of the land is taken, whichever is earlier. In addition to this, in terms of Section 23(2), the land owners- 2 claimants are entitled to 30% `on such market value' because of the compulsory

nature of acquisition. `Such market value' is an expression which must be read ejusdem generis to the provisions of Section 23(1) of the Act, as they alone would provide meaning and relevancy to the guidelines which are to be taken into consideration by the courts for determining the market value of the land. The expression `shall' can hardly be construed as `may' giving an absolute discretion to the court to take or not to take into consideration the factors stated in Section 23(1) of the Act. The expression `shall' thus would have to be construed as mandatory and not directory. It is more so, keeping in view the language of Section 24 of the Act, which mandates that the court shall not take into consideration the matters indicated in firstly to eighthly of Section 24 of the Act. This legislative intent needs to be noticed for beneficial and proper interpretation of these provisions in the light of the scheme underlining the provisions of the Act.

29.The expression `such market value' used in Sections 23(1-A) and 23(2) respectively obviously would mean and refers to the market value determined in terms of Section 23(1) of the Act. This expression has been well explained by different judicial pronouncements and they have consistently been following what the Privy Council in the case of 2 Municipal Council of Colombo v. Kuna Mana Navanna Suna Pana Letchiman Chettiar [AIR (34) 1947 PC 118], laid down. There it is stated that "such market value" as used in Section 23 of the Act is the price which a willing vendor might be expected to obtain in the open market from a willing purchaser. It is the price which would be payable to a person after the complete appraisal of land with its peculiar advantages and disadvantages being estimated with reference to commercial value.

30.This principle holds good even now and any other consequential right, legal or commercial, which remotely flows from an agricultural activity will not and should not be treated as a relevant consideration.

31. Equally true will be the principle that the extent of compensation would always depend on the facts and circumstances of the given case and it is not possible to set any absolute legal principle as a panacea which uniformly will be applicable or capable of being applied as a binding precedent dehors the facts of a given case.

32. The discretion of the Court, therefore, has to be regulated by the legislative intent spelt out under these provisions. It is no more res integra and has been well settled by different judgments of this Court, requiring that the computation of compensation has to be in terms of Sections 23 and 24 of the Act and that too from the date of issuance of the Notification under Section 4 of the Act. It is only the statutory benefits which would be available in terms of Sections 23(1-A) and 23(2) of the Act.

33. A Bench of this Court in the case of Nelson Fernandes & Ors. v. Special Land Acquisition Officer, South Goa & Ors. [(2007) 9 SCC 447], while discussing on this aspect of the Act and its relevancy to the market value of the land, held as under :- "22. In determining the amount of

compensation to be awarded, the LAO shall be guided by the provisions of Sections 23 and 24 of the Act. As per Section 22 of the Act, the market value of the land has to be determined at the date of publication of notice under Section 4 of the Act i.e. 25-8-1994. As per Section 24, the LAO shall also exclude any increase in the value of land likely to accrue from use to which it will be put once acquired. The market value of the land means the price of the land which a willing seller is reasonably expected to fetch in the open market from a willing purchaser. In other words, it is a price of the land in hypothetical market. During the site inspection, it has been observed that the land under acquisition is situated in Sancoale and Cortalim Village adjacent to the land already acquired for the same purpose earlier."

2 34.This was also reiterated by this Court in the case of Mohammad Raofuddin v. The Land Acquisition Officer, [(2009) 5 SCR 864] stating that Section 23 contains a list of positive factors and Section 24 has a list of negative, vis-`-vis the land under acquisition, to be taken into consideration while determining the amount of compensation, the first step being the determination of the market value of the land from the date of publication of Notification under sub-section (1) of Section 4 of the Act.

35.The next question which is of some importance arises out as a corollary to the above discussion. Should there be direct nexus between the potentiality of the acquired land as on the date of the Notification or can any matter which may be consequential or remotely connected with the agricultural activity be the basis for determining the market value of the land? Does the scheme of the Act, particularly with reference to Sections 23 and 24 of the Act permit such an approach? This question has to be answered in the negative. What is required to be assessed, is the land and its existing potentiality alone as on the date of acquisition.

Moreover, the potentiality has to be directly relatable to the capacity of the acquired land to produce agricultural products or, its market value relatable to the known methods of computation of compensation which we shall shortly proceed to discuss.

36.The second circumstance specified in Section 23(1) to be considered by the Court in determining compensation is the damage sustained by the person on account of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof. Even from a reasonable practicable view it has to be understood that the compensation which is payable to the claimants is in relation to the acquired land, the standing crops or trees and what they earn from the agricultural crops or fruits or trees on the agricultural land. To extend the benefit for the purposes of compensation, considering that the fruits grown on the agricultural land would be converted into Jam or any other eatable products will not be a relevant consideration within the scheme of the Act. The purpose is not to connect the acquisition to remote factors which may have some bearing or some connection with the agricultural activity being carried on, on the land in question. Such an approach by the Court is neither permissible nor prudent, as it would be opposed to the legislative intent contained under the provisions of Sections 23 and 24 of the Act.

37.Similarly, another example which can usefully be referred at this stage itself is that a person growing sugarcane on the land, which is acquired, would be entitled to the compensation of the land with reference to the agricultural yield and/or capitalization thereof only in respect of sugarcane. The rate of sugarcane in the market may be a relevant consideration but the fluctuating prices of sugar and other allied products in the market will be of no relevance in determining the fair market value of the acquired land.

38.It is the option of the agriculturist to give his sugarcane crop for manufacture of sugar or gur or for any other purpose which he may choose using his business wisdom but the costing and manufacturing activity of that particular product for which the sugarcane had been supplied by him would not be, in our view, a relevant consideration for determining the fair market value of the land, whichever be the method of computation of compensation adopted by the court of competent jurisdiction.

39. Such approach is in consonance with the judicial pronouncements of this Court as well as the requirements of law. In the case of State of Orissa v. Brij Lal Misra and Ors. [(1995) 5 SCC 203], the Court 3 clearly stated the principle that any increase in the amount awarded by way of compensation keeping in view the potentiality of the land and further increase on future potentiality would be contrary to the provisions of clauses fifthly and sixthly of Section 24 of the Act. The provisions of the Act require the court not to take into consideration various other factors including increase in the value of the acquired land, likely to accrue from the use for which it was acquired may be put to on a subsequent stage in regard to any lay out or improvement scheme etc.

40.Thus the restriction stated in law has been followed by the judgments of this Court and there is no occasion to take any view at variance to the existing law.

41.On proper analysis of the above stated principles and the relevant provisions of law, we have no hesitation in coming to the conclusion that consequential or remote benefits occurring from an agricultural activity is not a relevant consideration for determination of the fair market value on the date of the Notification issued under Section 4(1) of the Act. It is only the direct agricultural crop produced by the agriculturist from the acquired land or its price in market at best, which is a relevant consideration to be kept in mind by the court while applying any of the known and accepted method of computation of compensation or the fair market value of the acquired land.

42.Having answered the question of law, now we would proceed to apply this principle to the facts and circumstances of the cases before us. In paragraphs 16, 17 and 18 of this judgment we have referred to the findings recorded by the Reference Court and the High Court for enhancing the compensation from Rs. 90,640/- to Rs.2,92,500/- (by the Reference Court) and Rs.5,00,000/- (by the

High Court) for wet (irrigated) land. The same is not in conformity with the settled principles of law.

43.Mulberry crop is a crop which is grown on the land and then this crop is used as feed for silk worms which ultimately results in producing silk thread used for various purposes at a commercial level.

44. The respondents in the present appeal had filed an affidavit dated 14th July, 2009 to substantiate their arguments that cocoons and silk thread is the end product for which the Mulberry crop is being used and, therefore, the income from or market value of cocoon and even the silk thread would be a relevant consideration for determination of 3 compensation. In paragraph 1(1) of the affidavit it has been averred that cocoon (a female moth) in a single laying lays 450-550 Grains DFL (Deceased Free Layings) on a single day. The same is made to lie on an egg sheet. The entire 450-550 Grains are called as one egg and each of these Grains will develop as one cocoon. Therefore, out of one egg the claimants get 450-550 cocoons which weigh 1.5 gms to 2.00 gms. each. The literature annexed to this affidavit shows that Sericulture, the technique of silk production, is an agro-industry playing an eminent role in the rural industry of India. It also says that the cost of producing mulberry has a direct impact on the cost of producing cocoons, as nearly 60% of the total cost of production of cocoons goes to the production of mulberry leaves.

45.The photographs contained in the literature placed on record also show that mulberry crop is grown like other crops and its leaves are used as a feed to cocoons. It is after they are provided with this food that they convert themselves into cocoons which are then industrially processed to the manufacture silk and is ultimately converted in those manufacturing units as a silk thread.

46.The handbook issued by the Central Silk Board under the title `Handbook of Sericulture Technologies' shows that the full grown plant is a plant which is ready for pruning and suggest that to improve the leaf quality as well as the productivity, whenever necessary, plant protection measures must be followed. These measures are taken only after pruning and 15 to 18 days before leaf harvest for brushing. From brushing to two feedings after second instar, the silk worms are fed with tender leaves. The leaves to be harvested are from below the largest glossy leaf, which is yellowish green in colour. The cardinal point is shoot tip and it should not be removed during any crop. Below the glossy leaf, about leaves during the first (1-3) and about 3 leaves (4-6) during the second instar can be harvested. Silk worms grow best when fed with fresh mulberry leaves, which are rich in nutrients and moisture. Under tropical conditions, driage of leaf is faster. Usually, the leaves are harvested twice a day and are preserved for successive feedings, depending on the necessity. During the periods, the leaves should be properly preserved.

47.Thus, the literature submitted by both the parties before us clearly show that manufacture of silk from cocoons is a process of manufacturing where the silk worms are fed with the mulberry leaves

grown on fields 3 and which alone is an agricultural activity. There is a connection between the two but it is not of such a direct relevancy that it should form the criteria for awarding compensation in terms of Section 23 of the Act. The mulberry crop is like tea crop and is grown in the shape of small trees or bushes. The leaves are taken off and used for feeding the silk worms for production of silk thread. It is upon the person carrying out the agricultural activity whether he sells his mulberry crop to a manufacturing unit or establishes his own unit for that purpose and utilizes the mulberry crop grown on the fields for the process of manufacturing by providing it as a food to the silk worms.

48.It would have been more desirable for the reason that there was no evidence led by the claimants to substantiate and justify their claim with reference to the alleged silk cocoons being an agricultural activity, the onus being upon them. There was a presumption in the mind of the court as well as the claimants that, the manufacture of silk thread by the stated process of boiling silk cocoons which is the result of the silk worm being fed by mulberry leaves is an agricultural activity. This presumption is contrary to law and the literature referred by the expert body as well.

49.It is quite similar to the crops grown in different parts of the country for example sugarcane and tea. The tea leaves are pruned and used for manufacturing different kinds of tea and allied products. Similar is the case with the sugarcane. The manufacturing and commercial activities for manufacture of tea, sugar and for that matter silk from silk worms cannot be treated as a permissible factor to be taken into consideration by the courts for determining the fair market value of the land. Activity of agriculture cannot thus be equated to sericulture. While agricultural activity is the growing of mulberry crop and disbursing it, manufacture of silk thread from silk worms who are fed with mulberry leaves, and then converted through the specified process into cocoons and ultimately silk thread and its sale is an activity of sericulture which primarily falls in the domain of manufacturing and commercial activity.

This activity of producing silk from silk worms for which mulberry crop is used as food, therefore, cannot be an activity directly covered under the provisions of Section 23 of the Act. Even by the process of judicial interpretation, it will amount to drawing an impermissible inference that sericulture is a part of agricultural activity, that too to the extent to make it a permissible consideration under the relevant provisions of the Act.

50.We may also usefully refer to a judgment of this Court in the case of K. Lakshmanan and Co. and Ors. v. Commissioner of Income Tax, [(1998) 9 SCC 537], where the Court was primarily concerned with what is the agricultural income for the purposes of the provisions of the Income Tax Act. The Court considered that the assessee was growing mulberry leaves which were not otherwise marketable and could only be used to feed the silk worms from which he was obtaining silk cocoons. It was held by the Court :

"Had mulberry leaves been subjected to some process and sold in the market as such then certainly

the income derived therefrom would be regarded as agricultural income but the case of the appellant before the authorities, and in this Court, has been that, mulberry leaves cannot be sold in the market and they can only be fed to the silkworms. The agricultural produce of the cultivator will be mulberry leaves and by no stretch of imagination can the silkworms, and certainly not the silk cocoons, be regarded as the agricultural produce of the cultivator."

51.The aforesaid judgment clearly shows and supports the view that we have taken, that silk worms being converted into silk cocoons and final product being silk thread for which some process or manufacturing activity is taken by the manufacturer, does not include growing of mulberry crop which is a food only for silk worms and thus, is only an agricultural activity and the entire remaining process cannot impliedly or by inference be termed as agricultural activity or an activity directly connected to agriculture for the purposes of Section 23 of the Act.

52.The learned Reference Court which enhanced the compensation to Rs.2,92,500/- in relation to wet land ; Rs.1,46,250/- lightly irrigated land and Rs.1,20,000/- to other land, and the High Court in enhancing compensation to Rs.5,00,000/- for wet land and Rs.2,53,750/- for dry land have primarily based their reasoning which is not sustainable in law being contrary to the statutory scheme of the Act.

53.We are unable to appreciate the approach adopted by the learned Reference Court and as upheld by the High Court. The basic error of law to which the courts below have fallen is that ultimate manufacturing of silk thread under the nomenclature of cocoons has been treated as a purely agricultural activity relevant for determination of fair market value of the land in terms of Section 23 of the Act.

54.We are unable to uphold the methodology adopted by the courts as well as the extent of compensation awarded to the claimants. The other reasons for our not accepting the findings recorded and compensation allowed by the High Court is that, there is no evidence on record to 3 show that there is any intrinsic or inseparable link between the two activities. Furthermore, there is hardly any evidence on record, and in fact nothing was brought to our notice by the claimants have proved by documentary or any other cogent evidence, that they were carrying on the activity of sericulture and were utilizing mulberry crop only for that purpose. Even if that was so, we have serious doubt that even in those circumstances, whether it could be said to be a relevant consideration.

55.The error by the courts in appreciation of evidence is that they have treated the cocoons as the crop and not mulberry leaves. In fact, it is the very basis of a claim for higher compensation that cocoons being the agricultural end product, they were entitled to higher compensation.

We have already indicated that there is no direct evidence led by the claimants in this regard. The courts have only referred to the statement of PW-1 to say that there were six crops of mulberry plants. Further, the document Exh. P-9 showed that claimant Karigowda (respondent herein) was growing mulberry crop on the entire acquired land of 37 guntas for the purpose of sericulture. Thus relying on Exhs. P-9 and P- 10, statement of PW-1 and on the computation put forward by the claimants, enhanced compensation was granted. It may be noticed that PW-1 in his own statement has stated that mulberry plants are used for 4 the purposes of feeding the silk worms. He stated that farmers are doing sericulture in huge quantity in the area but which of the person was carrying on the said activity has not been stated. No record has been produced. Neither any other claimant entered in the witness box in support of the compensation claimed, nor any statistics or figures were produced, supported by the previous record, as to how they were carrying on this activity. The so called expert opinion again is not specific and supported by any scientific data. In fact, it is based more upon what the expert felt rather than the opinion which the expert would support, by actual physical inspection of the lands in question, data and literature.

56.It is also come on record that the entire lands situated in the village do not have the same fertility. Vide Exh. P-9 it was stated that the yield of cocoons per acre differ from crop to crop and this was an average estimated report. This exhibit is of no help to the claimants inasmuch it does not give the statistics with regard to mulberry crops but talks of cocoons which were stated to be 250-300 in one acre wet land (for 1 crop).

57.While adopting the criteria of capitalization and multiplying the same by 10, the finding of the High Court is clearly not supported by any cogent evidence on record and thus the question of applying the multiplier to a figure which has been arrived at, without any evidence would be inconsequential.

58.There is no direct and appropriate evidence to show any nexus to support the claim of the claimants. Thus, cocoons cannot be considered as a crop even as per literature submitted by the respective parties. Therefore the finding recorded is unsustainable even on appreciation of evidence.

What method should be adopted for determining fair market of the acquired land 59.To examine what method could be adopted for determining the market value of land and criticism of the method adopted by the Land Acquisition Collector, by the courts, that the same is not in accordance with law, we must notice various methods which are normally adopted by the Courts for determining the fair market value of the land and which of the method can be more properly applied in the facts and circumstances of this case.

60.Sections 23 and 24 of the Act spell out the have and have nots, applicable to the scheme of awarding compensation by the Collector but do not describe the methodology which should be adopted by the courts in determining the fair market value of the land at the relevant time. By

development of law, the courts have adopted different methods for computing the compensation payable to the land owners depending upon the facts and circumstances of the case. The Courts have been exercising their discretion by adopting different methods, inter alia the following methods have a larger acceptance in law :

(a) Sales Statistics Method: In applying this method, it has been stated that, sales must be genuine and bonafide, should have been executed at the time proximate to the date of notification under Section of the Act, the land covered by the sale must be in the vicinity of the acquired land and the land should be comparable to the acquired land. The land covered under the sale instance should have similar potential and occasion as that of the acquired land {Faridabad Gas Power Project, N.T.P.C. Ltd. & Ors. v. Om Prakash & Ors. [2009 (4) SCC 719], Shaji Kuriakose & Anr. v. Indian Oil Corp. Ltd. & Ors. [AIR 2001 SC 3341], Ravinder Narain & Anr. v. Union of India [2003 (4) SCC 481]}.

(b) Capitalization of Net Income Method: This method has also been applied by the courts. In this method of determination of market value, capitalization of net income method or expert opinion method has been applied. {Union of India & Anr. v. Smt. Shanti Devi & Ors. [1983 (4) SCC 542], Executive Director v. Sarat Chandra Bisoi & Anr. [2000 (6) SCC 326], Nelson Fernandes & Ors. V. Special Land Acquisition Officer, South Goa & Ors. (supra)} (c) Agriculture Yield Basis Method: Agricultural yield of the acquired land with reference to revenue records and keeping in mind the potential and nature of the land - wet (irrigated), dry and barren (banjar).

61.Normally, where the compensation is awarded on agricultural yield or capitalization method basis, the principle of multiplier is also applied for final determination. These are broadly the methods which are applied by the courts with further reduction on account of development charges. In some cases, depending upon the peculiar facts, this Court has accepted the principle of granting compound increase at the rate of 10% to 15% of the fair market value determined in accordance with law to avoid any unfair loss to the claimants suffering from compulsive acquisition. However, this consideration should squarely fall within the parameters of Section 23 while taking care that the negative mandate contained in Section 24 of the Act is not offended. How one or any of the principles afore stated is to be applied by the courts, would depend on the facts and circumstances of a given case.

62.In the present case, the Court has applied the method of agricultural yield and multiplier of 10 years. Further, it has declined to accept the method adopted by the Collector for granting compensation to the claimants for the reason that the SLAO ought not to have taken recourse to the method of sale statistics. It was further recorded that no sale instances of Sanaba Village three years prior to 2002 were available and instances of adjacent village should not have been taken into consideration. Instead, the market value should have been calculated by adopting capitalization method and no reason was stated as to why this method was not applied. We are unable to accept the approach of the High Court as well as that of the Reference Court on both these issues. Firstly, we

are of the considered view that adopting the method of agricultural yield and applying the multiplier method on the basis that the cocoon was an agricultural crop and resultantly silk cocoon itself was an agricultural activity was not correct. We need not elaborate on this aspect in view of our detailed discussion on it supra.

Secondly, we are also of the firm view that the Reference Court fell in error of law in stating that the lands of the adjacent or nearby villages could not have been taken into consideration and compensation could be determined with reference to the sales statistics.

63.It is not in dispute before us that the entire land was acquired for the same purpose and, in fact, the entire land including the land of the adjacent villages had submerged or was utilized for the purposes of construction and operation of the Hemavathi Dam. This Court has held in number of judgments that the lands of the adjacent villages can be taken into consideration for determining the fair market value of the land, provided they are comparable instances and satisfy the other ingredients stated in this judgment. It can hardly be disputed that the land in the area of village Sanaba and the adjacent village is being used for growing mulberry crops which is supplied by the agriculturists to the silk factories or they use the same for their own benefit of manufacturing silk. The lands were given two classification i.e. wet land and lands which were not having their own regular source of irrigation (dry lands).

64.It is a settled principle of law that lands of adjacent villages can be made the basis for determining the fair market value of the acquired land. This principle of law is qualified by clear dictum of this Court itself that whenever direct evidence i.e. instances of the same villages are available, then it is most desirable that the court should consider that evidence. But where such evidence is not available court can safely rely upon the sales statistics of adjoining lands provided the instances are comparable and the potentiality and location of the land is somewhat similar. The evidence tendered in relation to the land of the adjacent villages would be a relevant piece of evidence for such determination. Once it is shown that situation and potential of the land in two different villages are the same then they could be awarded similar compensation or such other compensation as would be just and fair.

65.The cases of acquisition are not unknown to our legal system where lands of a number of villages are acquired for the same public purpose or different schemes but on the commonality of purpose and unite development. The parties are expected to place documentary evidence on record that price of the land of adjoining village has an increasing trend and the court may adopt such a price as the same is not impermissible. Where there is commonality of purpose and common development, compensation based on statistical data of adjacent villages was held to be proper. Usefully, reference can be made to the judgments of this Court to the cases of Kanwar Singh & Ors. v. Union of India [JT 1998 (7) SC 397] and Union of India v. Bal Ram & Anr.

[AIR 2004 SC 3981].

66.In this regard we may also make a reference to the judgment of this Court in the case of Kanwar Singh & Ors. v. Union of India [AIR 1999 SC 317], where sale instance of the adjacent villages were taken into consideration for the purpose of determining the fair market value of the land in question and their comparability, potential and acquisition for the same purpose was hardly in dispute. It was not only permissible but even more practical for the courts to take into consideration the sale statistics of the adjacent villages for determining the fair market value of the acquired land.

67.We are unable to hold, that the SLAO had exceeded its jurisdiction or failed to exercise its jurisdiction properly while making the sale statistics of the adjacent villages Sanaba and Pandavapura as the basis for computing the compensation payable for the acquired land.

However the extent of compensation which ought to have been awarded, we shall discuss shortly.

68. At this stage, we may notice the proceedings of the SLAO, where he submitted the draft compensation award of the acquired land to the Government for its approval in accordance with law. As per clause 6 of this Report, he had visited and inspected the lands in the presence of various officers at Village Sanaba, Chinakurali Hobli, Pandavapura Taluk, Karnataka which were flooded by the backwaters of the river.

Even the claimants were present and they had prayed for compensation of Rs. 60,000/- per acre for dry land and Rs. 90,640/- per acre for garden land. But they did not produce any document before the said authority for determining the compensation for the acquired land. The Report reads as under :

"In this regard, as per confirmation letter of the guidance value at the office of the Sub- Registrar, Pandavapura, the guidance value of the dry land during the period 1998-99 to 2001-02 are as follows :

Years Per Acre of dry land 1999.2000 Rs. 36,000-00 2000-2001 Rs. 36,000-00 2001-2002 Rs. 38,000-00 3 years Rs. 1,10,000-00 Average 1,10,000 = 36,666.66 or 36,667-00 Per Gunta Rs. 916.68 or Rs. 917/- While fixation of the compensation for the dry land, it is Rs. 37,200/- per acre of dry land and Rs. 930/- per gunta as per the statement of sale transaction at the office of the Sub Registrar, Pandavapura Taluk and as per the guidance value it is observed to be Rs. 37,200/- per acre and Rs. 930/- per guntas of land.

While fixation of compensation amount to the garden lands, since there are no sale transactions of

the garden lands in Sanaba Village, the statement of the same are not available for consideration at the office of the Sub-Registrar, Pandavapura. For the said reason, the statement of the sale transactions of the garden lands within the Hobli Circle of the said village is taken as base. As such, the details of the transactions are as under :

Sl Name of the Sy. Nature Extent Sale R.No. & No Village No. of considera date land tion 01 Mahadevapura 84/1 Garden 0-10 G Rs.26000 1318/99- (Melukote land 00 Hobli) 4-10-99 5 02 Hosahalli 12/6 Garden 0-18 G Rs.37500 1770/99- (Chinkurali land 00 Hobli) 6-12-99 03 Dinkakaval Out Garden 0-10 G Rs.27000 184/00- (Chinkurali of 33 land 01 Hobli) 29-04-00 04 Vaddara halli 36/4 Garden 0-09 Rs.30000 199/01- (Kasaba Hobli) Land 02 20-4-00 36/2 Garden 0-03 land 36/3 Garden 0-02 land 0-14 05 Vaddara halli 51/7 Garden 0-17= Rs.37000 1028/01- (Kasaba Hobli) land 02 26-06-01 Total 01-29 = 1,57,500 The extent of garden land in which there was transaction : 01 Acre 29 = Guntas Total amount of transaction : Rs. 1,57,500/- Per Acre 1,57,500 x 40 = 90647-48 or 90640- 00 69.5 Per gunta 2266-18 or 2266-00 Per Acre Rs. 90,640/- and per gunta Rs. 2266/- In the same matter, the guidance value of the garden lands available at the office of the Sub-Registrar, Pandavapura is examined and the details are as under :

Year Per Acre of garden land 5 1999.2000 Rs. 85,000-00 2000-2001 Rs. 85,000-00 2001-2002 Rs. 90,000-00 Rs. 2,60,000-00 Per Acre = 2,60,000 = Rs. 86,666.67 3 or Rs. 86,667 and Per gunta Rs. 2167/- While fixation of the compensation amount for the garden lands, finally, the statements of the sale transactions and the guidance value details were made in comparison. AS such, the statements of sale transactions as base is considered to be just and hence per acre of garden land Rs. 90,640/- and per gunta as Rs. 2,266/- is decided and fixed.

For the amount of compensation fixed i.e. Rs. 37,200/- per acre of dry land and Rs. 90,640/- per acre of garden land, as statement shall be prepared and for the said amount a legislative compensation at the rate of 30% without interest shall be paid"

69.The above compensation was computed by the SLAO on the basis of the sale instances of the villages falling within the same Circle as well as on the basis of the guidance value maintained in the Register of the Sub-Registrar of the concerned villages. From the Report, it is evident that both these villages Sanaba and Pandavapura are located in the same Circle and are practically part of the larger revenue estate. It was 5 not in dispute before us that primarily all these lands were being used for cultivating mulberry crop which is the sole agricultural activity.

The court has to keep in mind a very pertinent equitable principle while awarding compensation, i.e the court should grant just and fair market value of the land at the time of the acquisition while ensuring that there is no undue enrichment. These are compulsive acquisitions but the guiding factor for the court is sale instances of a willing seller and a willing purchaser while determining the compensation payable. To award fair compensation is the obligation of the State and depending on the facts and circumstances of the case, the courts may enhance the compensation within the framework of law. The sale instances referred to by the Collector in his report are from the same

villages or nearby villages or adjacent villages which are a part of the same Circle and where the land can easily said to be comparable as the entire chunk of the land was being used for raising mulberry crop and was acquired for common purpose, that is, the lands were submerged in the water coming from the Hemavathi Dam.

70.This Court in the case of Shaji Kuriakose (supra) held that out of the three afore stated methods, the courts adopt comparable sales method of valuation of land while fixing the market value of the acquired land, 5 comparable sales method of valuation of land is preferred than the other methods such as capitalization of net income method or expert opinion method. Comparable sales methods of valuation is preferred because it furnishes the evidence for determination of the market value of the acquired land which a willing purchaser would pay for the acquired land if it has been sold in open market at the time of issue of notification under Section 4 of the Act. In Kantaben Manibhai Amin & Anr. v. The Special Land Acquisition Officer, Baroda [AIR 1990 SC 103] this Court also stated that latest sale instance closer to the date of notification for acquisition of the land should be taken into consideration.

71. It is also an accepted judicial norm that the claimants can be given the benefit of awarding compensation on the basis of the genuine sale instance containing the highest rate, provided it has been proved in accordance with law and is a comparable instance. Such sale instance must satisfy all the requirements and pre-requisite stated in the Act. It should be a bonafide transaction and should also be in reasonable proximity to the date of notification under Section 4 of the Act. Since the SLAO had referred to the four sale instances which were produced before him and being part of the reference file, they were duly noticed 5 by the Reference Court as well as by the High Court. But the Courts held that it was not appropriate to apply sales statistics method in the facts and circumstances of the case. Admittedly, the claimants produced no sale instances. In our view, these sale instances can be taken into consideration by the Court and benefit of the highest instance can be granted to the claimants in accordance with law in fixing the market value of the acquired land. Whatever benefit accrues to the claimants from the record produced and proved by the respondents, cannot be denied to them just because they have not produced evidence by way of sale instances.

72.The afore noticed sale instances which were taken into consideration by the SLAO, and which were part of the reference file show that there was an increasing trend in the sale price of the land in these villages as 10 guntas of garden land was sold in Mahadevpura (Melukote Hobli) for a sum of Rs. 26,000/- on 04.10.1999 while 9 guntas of garden land was sold in Vadara Halli (Kasaba Hobli) for a sum of Rs. 30,000/- on 20.04.2000. Similarly, 18 guntas of garden land was sold in Hosahalli (Chinkurali Hobli) for a sum of Rs. 37,500/- on 06.12.1999 and 10 guntas of garden land was sold in Dinkakaval (Chinkurali Hobli) for a sum of Rs. 27,000/- on 29.04.2000, all these sold lands fall in the same 5 circle. Besides this increasing trend and the fact that all these villages are adjacent villages to each other, the highest price fetched was for the sale instance executed on 26.06.2001 where 17 = guntas of garden land was sold in village Vaddara Halli (Kasaba Hobli) for a sum of Rs. 37,000/-. The notification under Section 4 was issued on 04.04.2002 that means that all the sale instances of the adjacent comparable lands are in proximity of time to the date of notification under Section 4 of the Act. The average of sale statistical instances referred above comes out to be Rs.

1,57,500/- for sale of 01 Acre 29 = Guntas i.e. 90,647.48 per acre. Since the sale instances relied upon are nearly around 1 to 2 = years prior to the date of notification, they are relevant considerations and, therefore, the claimants are entitled to an increase at the rate of 15% per annum compounded.

73. The aforesaid increase, in our view, is justified and equitable - firstly, on the ground that there was increasing trend in the sale price of that land and secondly, the lands acquired were being used by the agriculturists for production of mulberry crops which had a restrictive use in the manufacturing, commercial or industrial activities i.e. feeding the silk worms which are ultimately used for production of silk thread. The court cannot use this admitted restricted use to the 5 disadvantage of the land owners and some benefit should be given to them while balancing the equities in accordance with law. The concept of fair compensation payable for the acquired land is embodied in the Act itself, particularly in view of secondly and fifthly of Section 23 of the Act. In fact, it was stated during the course of arguments by the learned counsel appearing for the appellants that, the State Government itself has given some additional compensation to the claimants for mulberry crops which were standing at the time of submerging. We find this stand of the State Government to be reasonable and fair.

Thus, giving a 15% compounded increase for 2 = years on the sale price of Rs. 1,08,000/- in respect of garden land, the claimants would be entitled to get compensation at the rate of Rs. 1,53,542.50 per acre for the wet (irrigated) land. This can even be examined from another point of view, that is, the sale instance no. 3 where the land in village Dinkakaval (Chinkurali Hobli) garden land of 10 guntas were sold for a sum of Rs. 27,000/- on 29.04.2000, i.e. approximately 2 years prior to the date of notification under Section 4 of the Act. This would give the sale price of the surrounding village lands to the acquired land at the rate of 1,08,000/- per acre for the garden land. Giving it a compound increase of 15% for two year it will come to Rs. 1,42,830/- (Rs. 5 1,08,000/- + 15% on Rs. 1,08,000/- = Rs. 1,24,200/- for the first year; Rs. 1,24,200/- + 15% on Rs. 1,24,200/- = Rs. 1,42,830/- for the second year) and Rs. 1,42,830/- + 7.5% of Rs. 1,42,830/- = Rs. 1,53,542.50 for two and half years.

We have two important facts which cannot be ignored by the Court.

Firstly, that the claimants, by leading definite evidence have shown on record that the lands in question are not only lands having regular source of irrigation through the backwaters but otherwise are also lands superior to the other garden lands used for ordinary agricultural activities. The fields in question are being used exclusively for growing mulberry crops.

Mulberry leaves are the only and the specified food for cocoons. In other words, the agricultural purpose for which the fields in question are being used is a special purpose and the crop so grown is again used for a specific commercial purpose to which there is no other alternative. In fact, none

was stated before us by the learned counsel appearing for the parties. In all these peculiar facts, it cannot be disputed that some additional benefits have to be provided in favour of the claimants. In the present cases, the claimants have not only lost their agricultural land but they have also been deprived of seasonal income that was available to them as a result of sale of mulberry leaves. Deprivation of livelihood is a serious consideration.

The Court is entitled to apply some kind of reasonable guess work to balance the equities and fix just and fair market value in terms of the parameters specified under Section 23 of the Act. The SLAO has ignored both these aspects firstly providing of annual increase, and secondly, giving some weightage to the special agricultural purpose and the purpose for which the mulberry crop had to be utilized. The claimants have not proved and produced on record sale instances. They have also not produced on record any specific evidence to justify the compensation awarded to them by the Reference Court and/or the High Court. In fact, there is hardly any evidence, much less a cogent and impeccable evidence to support the increase on the basis of net income capitalization method. It is a settled rudiment of law that the Court, in given facts and circumstances of the case and keeping in mind the potentiality and utility of the land acquired, can award higher compensation to ensure that injustice is not done to the claimants and they are not deprived of their property without grant of fair compensation. Reference, in this regard, can be made to the judgment of this Court in the case of Land Acquisition Officer, A.P. v. Kamadana Ramakrishna Rao [(2007) 3 SCC 526]. While adopting the average sale method as the formula for awarding compensation to the claimants, we are also of the considered view that in the peculiar facts and circumstances of the case and the fact that the land is being compulsorily acquired, the claimants should be awarded a higher compensation. The compensation at the rate of Rs. 2,30,000/- per acre for the wet land and at the rate of Rs. 1,53,400/- per acre for the dry land would be just and fair compensation and would do complete justice between the parties. This element of increase had not been added by the SLAO which ought to have been done. As far as claimants are concerned, they have not produced and proved any sale instance and as already noticed, they have not even brought on record any specific evidence to justify their claims relatable to and based upon net income capitalization method. In fact, we do not hesitate in observing that claimants have failed to discharge their onus fully and satisfactorily.

74.The claimants have proceeded on the assumption that they will be entitled to get compensation, by treating the silk cocoons reared by them as the yield from the land and by capitalizing the value of the silk cocoons. We have already held that the determination of the market value by capitalization of yield method will depend upon the agricultural yield, that is, value of agricultural produce less expenditure for growing them, and not with reference to a further sericultural activity by using the agricultural produce. Therefore, what could be capitalized for determination of market value was the value of mulberry leaves used for sericulture and not the value of silk cocoons produced by feeding such mulberry leaves to the silkworms. The yield of silk cocoons is the result of further human effort and industry, value of which obviously cannot be capitalized for the purpose of arriving at the market value of the agricultural land. The evidence discloses that the acquired lands were used for growing mulberry crop which was being harvested to provide feed for the silkworms by way of sericulture.

Therefore, one way of arriving at the market value is to provide appropriate addition for the mulberry cultivation to the value arrived at for the land without mulberry cultivation. The second method is instead of taking the value of cocoons for the purpose of capitalization, take a part thereof, being the value of the mulberry crop input and capitalize the same. The land in question is special garden lands being used only for growing mulberry crop.

75.Keeping in mind the facts and circumstances of the case, it will also be just and fair to adopt some liberal approach with some element of guess work to provide the claimants with just and fair market value of the land in question. It must be remembered that, the entire land including village Sanaba and all other villages was acquired for the purpose of 6 submerging the lands because of the water coming from the Hemavathi Dam. In view of the cumulative discussion referred to above, we are of the considered view that it will be just, fair, equitable and in consonance with Sections 23 and 24 of the Act that the market value of the land as on 04.04.2002 can safely be taken as Rs. 2,30,000/- per acre in the case of garden land and, applying the accepted principle of reducing the said compensation in the case of dry lands by one third, the rate will be Rs.1,53,400/- per acre in the case of dry land keeping in view the peculiar facts and circumstances of the present case and the evidence on record.

Claim in regard to interest payable on taking of possession

76. The claimants while relying upon the judgment of this Court in Satinder Singh & Ors. v. Umrao Singh and Anrs. [AIR 1961 SC 908] and some other judgments of the High Court had claimed that they are entitled to receive interest from the date when their lands were submerged in the year 1993 onwards and not from the date of the Notification i.e. 4th April, 2002. It was contended that since they had lost possession and interest being payable in lieu of possession, they would be entitled to receive interest from those dates i.e. from 1993, 6 and not from the date the Land Acquisition Collector had granted, i.e. 4th April, 2002. The Reference Court as well as the High Court accepted this contention while referring to the judgments of the Executive Engineer, Dhenkanal Minor Irrigation Division, Orissa & Ors. v. N.C. Budharaj (deceased) by Lrs. & Ors., [(2001) 2 SCC 721] and Satinder Singh (Supra), granted the relief to the claimants as prayed.

77. The reliance placed by the respondents upon the judgment of N.C. Budharaj (supra), was with reference to the scope and interpretation of the relevant provisions of the Act. That case related to the provisions of the Indian Arbitration Act, 1940 and with reference to the relevant sections of the Interest Act, 1839, where this Court has held that provisions of the Act could be made applicable to arbitration as there was nothing to indicate that its application was restricted. Thus, it is not necessary for us to deliberate on the judgment of N.C. Budharaj case (supra) any further. Further, even the reliance placed upon Satinder Singh case (supra) is not of much help to the respondents.

This judgment relates to the period, prior to introduction and/or amendment of Sections 23(1A),

23(2) and 34 of the Act i.e. on 30th April, 1982 and 24th September, 1984. It has been contended on behalf 6 of the appellants, that it is now a well settled proposition of law that Reference Court cannot grant interest for any period prior to the issuance of the Notification under Section 4 of the Act. As such, possession even if taken or assumed to have been taken earlier would, dehor the provisions of the Act and, therefore, was improper. Thus, the possession has to be legal and within the framework of law. The provision of the Act clearly lays down the procedure required to be followed while taking possession of the acquired land. The words "from the date on which he took the possession of the land" occurring in Section 20 would mean lawful taking of possession. The case of Shree Vijay Cotton & Oil Mills Ltd. v. State of Gujarat [(1991) 1 SCC 262], also stated the principle that, interest on the compensation amount could be awarded under Section 34 of the Act, with effect from the date of taking possession. However, this controversy need not detain us any further, as the three Judge Bench of this Court in the case of R.L. Jain (D) by Lrs. v. DDA & Ors. [2004 (4) SCC 79] considered all these aspects of the matter and held as under :- ".....

15. Similar view has been taken in a recent decision by a Bench of two Judges in Lila Ghosh v. State of W.B., reported in (2004) 9 SCC 337 and the reasons given there in para 16 of the Report are being reproduced below:

16. .....There are two decisions of this Court, wherein same controversy arose, namely, whether the claimant would be entitled to additional sum at the rate of twelve per centum on the market value where possession has been taken over prior to publication of notification under Section 4(1). In Special Tahsildar (LA), PWD Schemes v. M.A. Jabbar, reported in (1995) 2 SCC 142 which has been decided by a Bench of two Judges (K. Ramaswamy and Mrs Sujata V. Manohar, JJ.), it was held that the claimant would not be entitled to this additional sum for the period anterior to publication of notification under Section 4(1). However, in Asstt. Commr., Gadag Sub-Division v. Mathapathi Basavannewwa, reported in (1995) 6 SCC 355 also decided by a two-Judge Bench (K. Ramaswamy and B.L. Hansaria, JJ.) it was held that even though notification under Section 4(1) was issued after taking possession of the acquired land the owners would be entitled to additional amount at twelve per cent per annum from the date of taking possession though notification under Section 4(1) was published later. For the reasons already indicated, we are of the opinion that the view taken in Special Tahsildar (supra) is legally correct and the view to the contrary taken in Asstt. Commr.(supra) is not in accordance with law and is hereby overruled.

17. Shri Dave, learned counsel for the appellant has also placed strong reliance on Satinder Singh v. Umrao Singh (supra) wherein the question of payment of interest in the matter of award of compensation was considered by this Court. In this case the initial notification was issued under Section 4(1) of the Land Acquisition Act, 1894 but the proceedings for acquisition were completed under East Punjab Act 48 of 1948. The High Court negatived the claim for interest on the ground that the 1948 Act made no provision for award of interest. After quoting with approval the following observations of the Privy Council in Inglewood Pulp and Paper Co. Ltd. v. New Brunswick Electric Power Commission, reported in AIR 1928 PC 287.

"upon the expropriation of land under statutory power, whether for the purpose of private gain or of good to the public at large, the owner is entitled to interest upon the principal sum awarded from the date when possession was taken, unless the statute clearly shows a contrary intention"

the Bench held as under:

"... when a claim for payment of interest is made by a person whose immovable property has been acquired compulsorily he is not making claim for damages properly or technically so-called; he is basing his claim on the general rule that if he is deprived of his land he should be put in possession of compensation immediately; if not, in lieu of possession taken by compulsory acquisition interest should be paid to him on the said amount of compensation".

17.1. The normal rule, therefore, is that if on account of acquisition of land a person is deprived of possession of his property he should be paid compensation immediately and if the same is not paid to him forthwith he would be entitled to interest thereon from the date of dispossession till the date of payment thereof. But here the land has been acquired only after the preliminary notification was issued on 9-9-1992 as earlier acquisition proceedings were declared to be null and void in the suit instituted by the landowner himself and consequently, he was not entitled to compensation or interest thereon for the anterior period.

18. In a case where the landowner is dispossessed prior to the issuance of preliminary notification 6 under Section 4(1) of the Act the Government merely takes possession of the land but the title thereof continues to vest with the landowner. It is fully open for the landowner to recover the possession of his land by taking appropriate legal proceedings. He is therefore only entitled to get rent or damages for use and occupation for the period the Government retains possession of the property. Where possession is taken prior to the issuance of the preliminary notification, in our opinion, it will be just and equitable that the Collector may also determine the rent or damages for use of the property to which the landowner is entitled while determining the compensation amount payable to the landowner for the acquisition of the property. The provisions of Section 48 of the Act lend support to such a course of action. For delayed payment of such amount appropriate interest at prevailing bank rate may be awarded."

78.We are bound by the decision of the larger Bench, which had considered the case of Satinder Singh (supra), on which the reliance has even been placed by the claimants in the present appeal. The larger Bench after detailed discussion on the subject, rejected the claim for payment of interest claimed by the respondents in those cases, prior to the date of issuance of the Notification under Section 4 of the Act. As is evident from the above dictum of the Court, despite dispossession, the title continues to vest in the land owners and it is open for the land owners to take action in accordance with law. Once notification under Section 4 (1) of the Act has been issued and the acquisition proceedings culminated into an award in terms of Section 11, then alone the land vests in

the State free of any encumbrance or restriction in terms of provisions of Section 16 of the Act. The Court, in situations where possessions has been taken prior to issuance of notification under Section 4(1) of the Act, can direct the Collector to examine the extent of rent or damage that the owners of land would be entitled to the provisions of Section 48 of the Act would come to aid and the Court would also be justified in issuing appropriate direction. This was the unequivocal view expressed by the Court in R.L. Jain case (supra) as well. This legal question is no more open to controversy and stands settled by this Court. We would follow the view taken and accept the contention of the appellant-State that the Reference Court as well as the High Court could not have granted any interest under the provisions of the Act, for a date anterior to the issuance of Notification under Section 4 of the Act. However, following the dictum of the Bench, we direct the Collector to examine the question of payment of rent/damages to the claimants, from the period when their respective lands were submerged under the back water of the river, till the date of issuance of the Notification under Section 4(1) of the Act, from which date, they would be entitled to the statutory benefits on the enhanced compensation.

79.As noticed in the opening part of the judgment, the respondents had taken an exception and raised objection to the maintainability of the appeal before this Court being directly filed against the judgment of the Principal Civil Judge, Senior Division (Reference Court). It is true, that right of appeal is a statutory right. It normally should be exercised in terms of the statute but the fact of the matter, in the present appeals, is that the High Court had followed its earlier view and disposed of number of appeals against the judgment of the Reference Court against which appeals have been preferred before this Court. In the meanwhile, the Reference Court had passed different judgments granting the same compensation against which appeal before the High Court would hardly be of any substantial benefit and would have been academic only. It also requires to be noticed at this stage that certain appeals preferred by the State against the judgment of the Reference Court, before the District Judge were also pending during the period when the High Court disposed of the above-noticed appeals. In other words, the fate of the appeals preferred by the State before the District Court (First Appellate Court) challenging the quantum of compensation awarded by the Reference Court stood decided in view of the judgment of the High Court and became academic. In these circumstances and 6 keeping in view the peculiar facts and circumstances of these cases, we do not propose to accept the objection raised by the respondents and while leaving the question of law open, dispose off the said appeal on merit.

The above-noticed facts clearly indicate that appeals are even now pending before various Courts in the State of Karnataka. The Government Authorities are expected to advert to the factors relating to the pendency of various appeals including those before the Reference Court and take steps at the earliest to remedy the legal grievances raised by the claimants at different levels of justice administration system. Despite its might, it is expected to be a responsible and reluctant litigant as there is obligation upon the State to act fairly and for the benefit of the public at large. It will be in harmony with the principle of proper administration that State also takes decisions which would avoid unnecessary litigation. An established maxim "Boni judicis est lites dirimere, ne lis ex lite oritur, et interest reipublicae ut sint fines litium", casts a duty upon the Court to bring litigation to an end or at least endure that if possible, no further litigation arises from the cases pending before the Court in accordance with law.

This doctrine would be applicable with greater emphasis where the judgment of the Court has attained finality before the highest Court. All other Courts should decide similar cases particularly covered cases, expeditiously and in consonance with the law of precedents. There should be speedy disposal of cases particularly where the small land owners have been deprived of their small land-holdings by compulsive acquisition.

Any unnecessary delay in payment of the compensation to them would cause serious prejudice and even may have adverse effect on their living.

In these circumstances, we consider it necessary to issue appropriate directions to the State authorities and request the Courts, where cases are pending arising from the same notification, to dispose of the pending proceedings without any further delay.

80.In view of the aforesaid discussion, we allow these appeals in part, with the following directions: - (i) The appeals filed by the State are partially allowed.

In the peculiar facts and circumstance of the present case, the claimants would be entitled to get compensation at the rate of Rs.2,30,000/- per acre for the wet/garden land and at the rate of Rs.1,53,400/- per acre for the dry land.

(ii) The claimants - land owners would be entitled to get statutory benefits on the enhanced compensation under Sections 23(1A) and 23(2) of the Act and interest in terms of Section 28 of the Act.

(iii) Since, the appeals filed by the State have been partially allowed by this Court, we hope that the Government shall grant compensation to all the interested persons whose lands have been acquired under the same notification and pay them compensation in terms of this judgment without any further delay.

(iv) Following the principle and the directions stated by this Court in R.L. Jain's case (supra), we grant liberty to the claimants to file applications before the competent authority (State Government/concerned Collector) to claim damages for their dispossession from the lands owned by them as a result of submerging, till the date of issuance of notification under Section 4 of the Act i.e. 4th April, 2002. These applications may be filed within eight weeks from the date of

pronouncement of this judgment. If such applications are filed we direct the competent authority to consider the same sympathetically and award such amounts to the claimants as may be payable in accordance with law expeditiously. We make it clear that the amounts, if already paid for this period, shall be adjusted.

(v) The direction of the High Court for payment of interest for the period prior to the issuance of the notification under Section 4 of the Act i.e. 4th April, 2002 is hereby set aside and order to be deleted.

(vi) The appeals are allowed to the above extent.

(vii) Parties to bear their own costs.