

REFERENCE FOR ENHANCEMENT OF
COMPENSATION

This Appeal coming on for
hearing this day, THAKUR J ,
delivered the following:

J U D G M E N T

This appeal calls in question the correctness of an order passed by the Prl Civil Judge (Sr Dn) Belgaum, whereby the said Court has allowed LAC 55/91 in part and enhanced the compensation payable to the respondent land owners from Rs 2,500/- per gunta to Rs 7,324/- per gunta with statutory benefits

2 An extent of 1 acre 15 guntas of land situate in Sy No 205/2 of Shahapur Village, located within the Corporation limits of the city of Belgaum, was together with other lands notified for acquisition in terms of a notification dated 8th May, 1980 The acquisition was for the purpose of formation of a housing layout on the outskirts of Belgaum The Land Acquisition Officer in due course made and

owners on that basis The reference Court was therefore perfectly justified in holding that the basis on which the Land Acquisition Officer had determined the compensation at the rate of Rs 2,500/- was not legally sound

5 While determining the amount payable to the land owners, the reference court had before it a transaction in respect of a parcel of land measuring 41 guntas situated in revenue Sy No 217 sold for a sum of Rs 45,000/- PW4 examined by the land owners had deposed that the said land was situated in a slum at some distance from the main road, but hardly 150 ft from the land acquired from the respondent land owners The evidence on record further shows that the land acquired from the respondent land owners was abutting the Shahapur-Madhavpur Main Road Since the reference sale transaction related to a plot of land situated within the limits of Corporation at the time of acquisition, the Court felt that the same could be made a sound basis for determining compensation payable to the land owners subject to a suitable deduction on account

of the plot of land sold being smaller in comparison to the area acquired from the respondents Relying upon the decision reported in LAC 1991 page 318 the reference Court has held that a deduction of 33 33% would be sufficient to bring the land under acquisition at par with the land sold in terms of the sale deed mentioned above It has accordingly determined the compensation payable to the land owners at Rs 7,324/- after making the necessary deduction.

6 There is in our opinion no error or irrationality in the approach adopted by the reference Court or the conclusion arrived at by it It is true that deductions towards development charges and cost of the land to be used for laying the roads and other amenities can go upto 53% and even more depending upon the condition of the lands that are acquired and the extent of development that is required to be carried out But any such deduction becomes necessary only in case where the comparable sale transaction is in respect of a parcel of land situated in a developed housing colony or

7 On the contrary, if the determination of compensation is based on a transaction which is not located in a developed layout, the nature of development to bring the two at par may be much less and consequently, the deduction may be low. Having regard to the fact that the reference sale in question is located in a slum with no or bare minimum facilities like roads and sanitation, the reference Court has deducted only 33% of value of land towards the cost of development with which we find no fault to warrant interference.

8. We may before parting mention that during the course of these proceedings, the appellant had filed an affidavit and produced certain additional documents comprising the details of sale transaction which the Land Acquisition Officer had taken into consideration while fixing the value of the land at Rs 2,500/- per gunta. A perusal of the statistics so assembled and produced before us shows that a number of sale transactions that had taken place between June 1977 and April 1980 relate to similar smaller

parcels of land in different areas of Belgaum for which the consideration exchanged and paid was upto Rs 11,000/- per gunta For instance, the sale transaction dated 30th June, 1977 for 4 10 guntas of land was for a consideration of Rs 30,000/- Another transaction that took place on 18th February, 1978 related to land measuring 3 1 guntas for a sum of Rs 16,000/- Yet another transaction dated 6th April, 1978 was in respect of land measuring 4 10 guntas for a sale consideration of Rs 20,000/- To the same effect, is the sale transactions dated 26th September, 1978, 13th August, 1979, 17th August, 1979, 25th September, 1979 and 28th April, 1980 in which the consideration paid for different parcels of land works out to around Rs 8,000/- per gunta These transactions lend considerable corroboration to the view taken by the reference Court that the market value of the land acquired from the respondent land owners during the relevant period was more than Rs 7,000/- per gunta In the totality of the circumstances therefore, we see no reason to take a view different from the one taken by the reference



