Income Tax under sections 44AC and 206C though they were required by law to do so. Even uptil today, they have not been charging Income-tax at source. Since the distilleries were restrained by this Court from performing their statutory duties, they cannot be held liable civily or criminally for not following the legislative command in sections 44AC and 206C and no action should be taken and can be taken against them on this score. The petitioners country liquor contractors shall be liable to pay Income-tax on the purchases made by them from the distilleries during this interregnum and the same shall ultimately be set off or taken into account while framing the final assessment by the authorities.

(18) We accordingly dispose of these writ petitions in the above terms with no order as to costs.

R.N.R.

Before A. L. Bahri, J.

SMT. RAVI KANTA,—*Petitioner.*

versus

THE LAND ACQUISITION TRIBUNAL, HISSAR AND OTHERS,—

Respondents.

Civil Writ Petition No. 738 *of* 1988.

25th August, 1989.

Land Acquisition Act (I of 1894)—Ss. 19 and 50(2)—Punjab Town Improvement Act, 1922 (as applicable to the State of Haryana)—Ss. 28(2), 32(1), 36, 38, and 42—Constitution of India, 1950—Article 226—Land acquired by the State Government for improvement trust—Improvement trust is an interested party and has right to seek reference and challenge award—Trust is competent to maintain writ petition under Art. 226—Adoption of belting system for purposes of fixing market value—Land bearing residential and commercial potential—Applying belting system is not warranted—Uniform rate applied.

Smt. Ravi Kanta *v.* The Land Acquisition Tribunal, Hissar and others (A. L. Bahri, J.)

Held, that in view of the provisions of Punjab Town Improvement Act, 1922 it is the Improvement Trust which acquires the land and it is only for the purposes of procedure that resort is had to the provisions of the Land Acquisition Act. Section 50 of the Land Act, thus, will not restrict the right of the Improvement Trust either to be a party or to challenge the valuation fixed by the Collector. The Improvement Trust under Section 19 of the Land Acquisition Act has an independent right to move a reference to the Tribunal and, thus, would be an interested party therein or in the reference made by the owners of the properties. Since the acquiring authority is the Trust, it will be the aggrieved party who could challenge the award of the Tribunal by filing the writ petition. The ratio of the decisions referred to above, thus, would not be attracted to the cases covered by the Act as the land is not being acquired by the State Government for the Improvement Trust. Thus it is held that the four writ petitions, referred to above, on behalf of the Hissar Improvement Trust are maintainable.

(Para 14)

Held, that the belting system adopted by the Tribunal as well as by the Land Acquisition Collector was not called for. The disputed land, as already described above, being in the heart of the town having great potentiality for being used for residential and commercial buildings and, in fact, having shops thereon surrounded by roads on three sides, municipal office, telegraph office, Cinema and other commercial buildings, does not warrant applying of a belting system. The Tribunal was, thus, in error in fixing market value of the acquired land and adopting the belting system.

(Para 24)

Petition under Articles 226 *and* 227 *of the Constitution of India praying that this Hon'ble Court may be pleased to issue a writ in the nature of* certiorari *calling for the relevant records from the respondents and after perusing the same, may be pleased to:—*

(*i*) *issue an appropriate writ, direction or order modifying the impugned award, Annexure P-3 to the extent that it goes against the petitioner.*

(*ii*) *issue an appropriate writ, direction or order commanding the respondents to pay the fair and just compensation for the acquired property of the petitioner.*

(*iii*) *issue any other appropriate writ, direction or order that this Hon'ble Court may deem fit in the circumstances of the case.*

(*iv*) *dispense with the filing of certified copies of Annexures P-1 to P-8.*

(*v*) *dispense with the service of advance notices of motion on the respondents ; and*

(*vi*) *award costs to the petitioner.*

M. L. Sarin, Sr. Advocate with Miss Jaishree Thakur, Advocate, *for the Petitioner.*

H. L. Sibal, Sr. Advocate with C. B. Goel, Advocate, *for the Respondents.*

JUDGMENT

A. L. Bahri, J.

(1) *Vide* this judgment seven writ petitions are dosposed of as having been filed challenging the same award of the Land Acquisition Tribunal, Improvement Trust, Hissar (hereinafter called 'the Tribunal') appointed under the Punjab Town Improvement Act, 1922 (as applicable to the State of Haryana) (hereinafter called 'the Act'). The award of the Tribunal is dated September 29, 1987 and is Annexure 'P-2' in the writ petitions filed by the Hissar Improvement Trust and Annexure 'P.3' in the other writ petitions filed by the claimants. By this award compensation for an area of land measuring 8686 square yards situated within the municipal limits of the town of Hissar City was fixed adopting the belting system at the rate of Rs. 400 and Rs. 350 per square yard respectively for the two belts. Writ petitions Nos. 9752 to 9755 of 1987 have been filed by the Hissar Improvement Trust whereas writ petitions Nos. 738 to 740 of 1988 have been filed by the owners of the properties acquired. The facts are taken from Civil Writ petition No. 738 of 1988 (*Shrimati Ravi Kanta* versus *The Land Acquisition Tribunal, Hissar, and others*).

(2) Hissar Improvement Trust, respondent No. 3, is a statutory local authority created under the Act. The Improvement Trust prepared commercial development scheme No. 5-A. Originally it was intended to acquire 2.26 acres of land. The Governor of Haryana accorded sanction to the said scheme,—*vide* notification dated April 15, 1975 and it was published in the Haryana Gazette on May 6, 1975. The notification was also issued under Section 42(1)

of the Act. Subsequently, the scheme was notified and some area was released. The remaining area intended to be acquired measured 8686 square yards. At this stage it may be noticed that earlier such a scheme was framed. However, the same was abandoned.

(3) The Sub Divisional Officer (Civil) acting as Land Acquisition Collector, Hissar, announced his award on April 26, 1976 for the acquired land. He created three Zones for the purposes of fixation of market value. For the land in Zone-A measuring 1209 square yards market value was fixed at the rate of Rs. 100 per square yard. In respect of the land falling in Zone-B measuring 402 square yards, the market value was fixed at the rate of Rs. 60 per square yard and in respect of the remaining land falling in Zone-C measuring 7075 square yard, the market value was fixed at the rate of Rs. 40 per square yard. Since on some of the land acquired existed commercial premises, for the buildings and structures thereon in an area of 1611 square yards the Collector awarded a sum of Rs. 1,00,151.70. On the amount awarded, solatium of fifteen per cent, as then prevalent, was awarded. The possession of the land acquired was taken on May 12, 1976. Since the owners of the land acquired were not satisfied with the amount of compensation fixed by the Collector, they moved applications under Section 18 of the Land Acquisition Act, which were subsequently referred to the Tribunal. The Land Acquisition Collector also made reference under Section 19 of the Land Acquisition Act, which was also disposed of by the Tribunal.

(4) The Tribunal in his award created two belts. For the land under the first belt he fixed the market value at the rate of Rs. 400 per square yard and for the other Rs. 350 per square yard. He also awarded 30 per cent solatium and interest as per the Amended Land Acquisition Act. This is how this award is under challenge in the aforesaid writ petitions.

(5) A preliminary objection has been raised to the maintainability of the writ petitions filed on behalf of the Hissar Improvement Trust. It has been argued that the Hissar Improvement Trust, a statutory body, framed the scheme of commercial development as referred to above. However, the land was acquired by the State Government for the Improvement Trust and in such circumstances the Trust cannot be considered to be an aggrieved party to challenge

the award of the Tribunal by filing the writ petitions. On the other hand, it has been argued that the Act is a Code itself. After the sanction of the scheme by the government, it is the Improvement Trust which is to implement it. Thus, it is the trust which acquires the property and pays its value; and as such is competent to challenge the award by filing writ petitions.

(6) There is no direct judicial pronouncement on the subject. Reference has been made to some of the decisions where land was acquired by the State Government for companies or other statutory authorities.

(7) In *M/s. Indo Swiss Time Limited, Dundahera* v. *Umrao and others* (1), the Full Bench of this Court considered the question whether a company for whose benefit land was acquired under the provisions of the Land Acquisition Act could be impleaded as a party in the Court of the District Judge in a reference preferred under Section 18 of the Land Acquisition Act. It was held that an application under Order 1 Rule 10 of the Code of Civil Procedure for being impleaded as a party by the company was not legally maintainable; that the company was not an interested person so as to give it a right to become a party in the reference before the District Judge; that the only right under the Land Acquisition Act available to the company was to appear and adduce evidence for the determination of the amount of compensation; and that the company by itself would have no right to file an appeal. Similar view was taken by the Full Bench of the Andhra Pradesh High Court in *The Andhra Pradesh Agricultural University Rajendranagar* v. *Mahmoodunnisa Begum and another* (2).

(8) The matter was also considered by the Supreme Court in *Santosh Kumar and others* v. *Central Warehousing Corporation and another* (3). In that case the land was acquired by publishing a notification under Section 4 of the Land Acquisition Act by the Collector for construction of godowns for the Central Warehousing Corporation. The Corporation wanted to make a reference to the District Judge which was declined by the Land Acquisition Collector and the Corporation challenged the said order in the writ petition. The Supreme Court held as under:—

> "The scheme of the Act is that, apart from fraud, corruption or collusion, the amount of compensation awarded by the

(1) 1981 P.L.R. 335.
(2) A.I.R. 1976 A.P. 134.
(3) A.I.R. 1986 S.C. 1164.

Collector under S. 11 may not be questioned in any proceeding either by the Government or by the Company or local authority at whose instance the acquisition is made. S.50(2) and S. 25 lead to that inevitable conclusion. Surely what may not be done under the provisions of the Act may not be permitted to be done by invoking the jurisdiction of the High Court under Art. 226. Art. 226 is not meant to avoid or circumvent the processes of the law and the provisions of the statute. When S.50(2) expressly bars the company or local authority at whose instance the acquisition is made from demanding a reference under S. 18 notwithstanding that such company or local authority may be allowed to adduce evidence before the Collector, and when S. 25 expressly prohibits the Court from reducing the amount of compensation while dealing with the reference under S.18, it is clearly not permissible for the company or local authority to invoke the jurisdiction of the High Court under Art. 226 to challenge the amount of compensation awarded by the Collector and to have it reduced."

(9) The Supreme Court again considered such a question in *The Municipal Corporation of the city of Ahmedabad* v. *Chandulal Shamaldas Patel and others* (4). In the said case the Government of Bombay issued notification under Section 4 of the Land Acquisition Act for the School. The notification was challenged in the High Court and Municipal Corporation was impleaded as one of the respondents. The petition was granted and the Municipal Corporation filed an appeal in the Supreme Court wherein preliminary objection was raised regarding maintainability of the appeal filed by the Corporation. The Supreme Court observed as under:—

"The Municipal Corporation was impleaded as the fourth respondent before the High Court but no relief was claimed against the Municipal Corporation. The property, it is true, was notified for acquisition by the State Government for the use of the Municipal Corporation after it was acquired by the Government, but that, in our

(4) 1971(3) S.C. C—821.

judgment, did not confer any interest in the Municipal Corporation so as to enable it to file an appeal against the order of the High Court allowing the petition."

(10) A perusal of the judgments referred to above reveals that the land was acquired by the State Government under the provisions of the Land Acquisition Act for other statutory bodies like Municipal Committee, Corporation etc. and in view of the provisions of Section 50(2) of the Land Acquisition Act such statutory authorities for whom the land was acquired could only adduce evidence for the purpose of determining the amount of compensation. The said provision further provided that no such local authority or Company shall be entitled to demand a reference under Section 18 of the Land Acquisition Act. Therefore, judicial decisions based on Section 50 of the Land Acquisition Act clearly ousted the right of any local authority or company for which the land was acquired to challenge the same either before the District Judge in a reference under Section 18 of the Land Acquisition Act or further in appeal to challenge the order passed on the reference.

(11) It is necessary to refer to certain provisions of the Act. The Improvement Trust is created under Section 3 of the Act which is a body corporate. It can sue and be sued. Section 4 refers to the formation of the Trust which is to consist of a Chairman and nine other Trustees. Chapter IV of the Act refers to the schemes to be framed under the Act. Under Section 22 the Trust is to pass a resolution with respect to "general improvement scheme" or "rebuilding scheme". Section 24 refers to development and expansion schemes. Sections 25 and 26 refer to housing accommodation scheme and rehousing scheme. Section 27 refers to rehousing of displaced resident house-owners. Section 28(2) of the Act refers to several matters which may be provided in the scheme. At this stage reference may be made to Section 28(2) of the Act which reads as under:—

"28. Combination of schemes and matters which may be provided for in the scheme.—

(1) xx xx xx xx

(2) A scheme under this Act may provide for all or any of the following matters:—

(i) the acquisition under the Land Acquisition Act, 1894, as modified by this Act, or the abandonment of such

acquisition under sections 56 and 57 of this Act, or any land or any interest in land necessary for or affected by the execution of the scheme, or adjoining any street, thoroughfare, open space to be improved or formed under the scheme;

(ii) the acquisition by purchase, lease, exchange or otherwise of such land or interest in land."

Section 32(1) of the Act reads as under:—

"Acquisition of property affected by deferred street scheme.—(1) In the locality comprised in a deferred street scheme the owner of any property affected by a street alignment duly prescribed by the trust may, at any time after the scheme has been sanctioned by the State Government give the trust notice requiring it to acquire such property before the expiration of six months from the date of such notice, and the trust shall acquire such property accordingly."

(12) Section 36 provides for preparation, publication and transmission of notices etc. regarding the schemes. It reads as under:—

"36. Preparation, publication and transmission of notice, as to improvement schemes, and supply of documents to applicants.—(1) When a scheme under this Act has been framed, the trust shall prepare a notice stating—

(i) the fact that the scheme has been framed,

(ii) the boundaries of the locality comprised in the scheme, and

(iii) the place at which details of the scheme including a statement of the land proposed to be acquired and a general map of the locality comprised in the scheme may be inspected at reasonable hours.

(2) the trust shall—

(a) notwithstanding anything contained in Section 78 cause the said notice to be published in the official Gazette and in a newspaper or newspapers with a statement of the period within which objections will be received, and

(b) send a copy of the notice to the President of the municipal committee.

(3) The Chairman shall cause copies of all documents referred to in clause (iii) of Sub section (1) to be delivered to any applicant on payment of such fees as may be prescribed by rule under section 74".

Section 42 of the Act reads as under:—

"42. Notification of sanction of scheme.—(1) The State Government shall notify the sanction of every scheme under this Act, and the trust shall forthwith proceed to execute such scheme, provided that it is not a deferred street scheme, development scheme, or expansion scheme and provided further that the requirements of Section 27 have been fulfilled.

(2) A notification under sub-section (1) in respect of any scheme shall be conclusive evidence that the scheme has been duly framed and sanctioned:

Provided that no notice in respect of sanction of a scheme shall be issued after the expiry of three years from the date of first publication of notice relating to the scheme under Section 36."

(13) The notification issued under the above provisions is to be treated as equivalent to notification issued under Section 4 of the Land Acquisition Act. Chapter V of the Act refers to the powers and duties of the Trust where a scheme has been sanctioned. The Act authorises the State Government to sanction the scheme framed by the Trust and thereafter it is the duty of the Trust to execute the same. The Trust is to prepare a notice as required under Section 36 of the Act. This notice is required to be published in the

Official Gazette. Under Section 38 of the Act another notice is required to be prepared which is to be served on the owner of the property under Section 38(2)(a). Said notice has to mention that the Trust proposes to acquire such property for the purposes of carrying out the scheme under the Act. Under Section 42 of the Act the State Government is required to notify every scheme and Trust is to proceed to execute such scheme, as stated above.

(14) In view of the provisions referred to above, it is the Improvement Trust which acquires the land and it is only for the purposes of procedure that resort is had to the provisions of the Land Acquisition Act. Section 50 of the Land Acquisition Act, thus, will not restrict the right of the Improvement Trust either to be a party or to challenge the valuation fixed by the Collector. The Improvement Trust under Section 19 of the Land Acquisition Act has an independent right to move a reference to the Tribunal and, thus, would be an interested party therein or in the reference made by the owners of the properties. Since the acquiring authority is the Trust, it will be the aggrieved party who could challenge the award of the Tribunal by filling the writ petition. The ratio of the decisions referred to above, thus, would not be attracted to the cases covered by the Act as the land is not being acquired by the State Government for the Improvement Trust. Thus it it held that the four writ petitions, referred to above, on behalf of the Hissar Improvement Trust are maintainable.

(15) The market value of land or property acquired is to be assessed on the basis of the price which a willing purchaser would pay. When reliance is placed on sale transactions either of the acquired land or of the land situated in the vicinity nearabout the relevant date i.e. date of publication of notification under Section 4 of the Land Acquisition Act or its equivalent under the Act, the potential value of the acquired land has also to be kept in view. The Tribunal also inspected the spot before he made the award. The Tribunal found with regard to the situation of the acquired land as under:—

> "Having had the advantage of inspecting the site on August 24, 1987, I found that it is situate cheek by jowl to the main Post and Telegraph Office which is housed in a new

huge building. Opposite to the site in dispute is situate the municipal office across the National Highway No. 10 (Hissar-Delhi road). The main commercial centres namely, bazars inside Nagori gate and Rajguru Market are situate at a distance of less than a furlong from the acquired land. Jambeshwar market has come up in the acquired land which comprises of three blocks in which about 35—40 shops have been built. I had mentioned the names of 31 shops out of 35—40 shops in para 2 of the inspection note. Old Anaj Mandi road, Devi Bhawan road pass on either side of Parijat Cinema which is situate on the other side of the crossing opposite the acquired land at a distance of 30—40 yards from it. The acquired land is situate in the heart of the town. The distance of Urban Estate No. 1 from the acquired land is less than a furlong. In between the acquired land and the Urban Estate No. 1 are the buildings of the main Post & Telegraph Office and Telephone Exchange which are housed in newly constructed buildings. A new shopping market has come up in the Urban Estate No. 1. Neelam Cinema is situate at a distance of less than 50 yards. Elite Cinema and railway station are situate at a distance of less than one Km, Dayanand College and F. C. College at a distance of half a Km, bus stand and civil hospital at a distance of half a Km from the acquired land. There are banks and offices of the industrial houses situate close to the acquired land on Old Anaj Mandi road, Highway No. 10 and Urban Estate No. 1."

The above situation is further clear from the plan Annexure 'P-5' produced in Civil Writ Petition No. 738 of 1988. The acquired land is surrounded by roads of the town on three sides and is situated in the heart of the town itself.

(16) The question debated on behalf of the claimants is that taking into consideration the situation of the acquired land and its potentiality for being used for residential and commercial purposes, the Tribunal was in error in adopting the belting system for purposes of fixing its market value. On the other hand, it has been aruged on behalf of the Trust that on the acquired land existed shops abutting on the Highway and in between there was a passage of about eight feet. The land beyond the shops, thus could not be used for residential or commercial purposes and had lesser potential.

The question as to whether a belting system should be adopted is to be determined in the facts and circumstances of each case. No uniform formula can be framed that in all cases of acquisition of properties within a town belting system for fixation of market value should be adopted. A brief reference is required to be made to the judicial decisions cited at the Bar.

(17) On behalf of the Trust, reliance has been placed on the decision of this Court in *Shrimati Uma and others* v. *The Tribunal Constituted under the Punjab Town Improvement Act*, 1922, *Jullundur and others* (5), wherein mode of dividing the land in two belts for determining the compensation of the land acquired for the Improvement Trust, Jullundur, was approved. It was held as under:—

> "the mode of dividing the land into belts is well known for the purpose of the determination of compensation, because different parcels of land are not of the same value. The potentiality of those parcels of land which abut on the road or which are in close proximity of already set up residential colonies etc. is much more than those parcels of the acquired land which are away from the roads of the habitated localities. It is rather to do justice to the land owners that the land for the purpose of determination of compensation is divided into belts. So no fault can be found with this process."

A perusal of the judgment indicates that the land acquired in that case was abutting on a road on one side and while fixing higher value for a belt of land abutting on the road, it was observed that for the remaining land a lesser value was to be fixed.

(18) The belting system for fixing market value of the land situated in the heart of the city having potentiality for both commercial and residential purposes was not approved by the Bombay High Court in *L. Y. Laqoo* v. *The Special Land Acquisition Officer (2) Pune and another* (6). It was held as under:—

> "It was not possible to apply belting system for the purpose of valuation of the market value in the present case.

(5) 1979 P.L.R. 551.

(6) A.I.R. 1982 Bombay 440.

The acquired property lay in the heart of the city. It was a commercial as well as residential locality and had a potentiality for both commercial as well as residential purposes. It was a compact parcel of land surrounded by roads and sub-roads that met the main busy street. In such a situation there was no possibility that any area could be evaluated by reason of its location or any of its particular feature made the difference so as to form a distinct belt of property. In such matters the central consideration was the willing purchaser notionally conceived ready to pay a price in the context of the market rate. Belting could be useful only from that angle when depth and remoteness of areas affected economic considerations and indicated possible variations in prices. Though, therefore, the area acquired was large, the effort to divide it in parcels of belts for different rates by the Assessing Valuers did not appear to be fair. Belting system if applied would not further the ends of justice so as to afford relief of just and equitable compensation."

(19) *Om Parkash and others* v. *The State of Haryana* (7), was a case relating to acquisition of land in the fast developing town of Faridabad. It was held that different valuations could not be fixed for the acquired land for different sectors in the said town.

(20) In *Nityagopal* v. *Secretary of State* (8), the fixation of the market value of the acquired land situated in the town, on the belting system, was discarded. It was observed as under:—

"Of course there is almost always a distinction in value between front lands and back lands everywhere but that distinction would not obviously justify recourse to the belting system in each and every case. It is a highly artificial system and cannot be resorted to as a hard and fast rule."

(21) In *Kunjukrishna* v. *State* (9), it was observed as under:—

"The arbitrary manner in which the lower Court divided the property into two for the purpose of valuation has undoubtedly caused considerable prejudice to the owner of

(7) 1987 L.A.C.C. 74.
(8) A.I.R. 1933 Calcutta 25.
(9) A.I.R. 1953 T.C. 177.

the property. Such a method of valuation in land acquisition cases, which is technically known as valuation by belts by artificially dividing the property into belts or plots, is generally discouraged for the obvious reason that it involves a considerable extent of arbitrariness. Even while attempting to fix the value of the property for the purpose of awarding compensation on the basis of the evidence disclosing the price at which other properties in the neighbourhood possessing similar advantages were sold at about the time of the acquisition, a certain degree of arbitrariness is inevitable. But care has to be taken to keep the scope of such arbitrariness in the matter of fixing the value of the property to the lowest level possible. That is the reason why the method of valuation by belts, which is bound to be arbitrary and artificial, is generally condemned and discouraged."

(22) The aforesaid decisions were relied upon by the Kerala High Court in *Ananthan Pillai* v. *State of Kerala* (10), and it was observed as under:—

"So far as the present case is concerned there is no justification for adopting this method which is resorted to only in cases where extensive lands having road only on one side is to be valued. Even if the system had to be adopted, the land could as well have been divided so that each plot would touch the main road. There is also no evidence to fix the value of the various belts into which the land was divided by the Land Acquisition Officer. The plot acquired in this case has a good public road on the West and another on the South. There is also a lane 10 links in width touching the Northern part of the property. In the circumstances we are not inclined to assess compensation on the method of valuation by belts."

(23) In *Siri Paul Oswal* v. *The Collector Land Acquisition, Ludhiana* (11), belting system was applied in respect of the acquired

(10) 1961 K.L.T. 723.

(11) L.P.A. No. 767 of 1980 decided on 23rd December, 1981.

land situated on the outskirts of Ludhiana abutting on Ludhiana-Chandigarh road. With respect to the evidence produced in that case, it was observed:—

> "The claimants themselves have brought on record several instances of the acquired land itself which clearly show that in the sale transactions in regard to the land situated on the Ludhiana-Chandigarh road, the value fetched was much higher than the value which the sale transactions fetched for land situate deep inside. Accordingly, we are in agreement with the learned Single Judge that belting was justified. While Shri Amarbir Singh Gill, Additional District Judge made three belts in the village, the learned Single Judge made only two belts, after setting aside the belt between 100—200 Karams. As regards belting, we are in total agreement with the learned Single Judge that there should have been only two belts."

(24) Keeping in view the ratio of the decisions referred to above and applying the same to the facts and circumstances of the case in hand, the belting system adopted by the Tribunal as well as by the Land Acquisition Collector was not called for. The disputed land, as already described above, being in the heart of the town having great potentiality for being used for residential and commercial buildings and, in fact, having shops thereon surrounded by roads on three sides, municipal office, telegraph office, Cinemas and other commercial buildings, does not warrant applying of a belting system. The Tribunal was, thus, in error in fixing market value of the acquired land adopting the belting system.

(25) The contention of the learned counsel appearing on behalf of the Trust that the acquired land can be used for residential and commercial purposes only after making development and, thus, uniform rates should not be applied, cannot be accepted as on three sides of the acquired land already exist roads of the town. In this context reference may be made to the decision of the Madras High Court in *Mohammed Karimuddin and others* v. *The Collector of Madras* (12), wherein it was observed:—

> "The land under acquisition is situated in Haddows Road and has a frontage on College road also. It is in a well-developed locality wherein all facilities have been

(12) I.L.R. (1964)2 Madras 337.

already provided by the Corporation of Madras long prior to the acquisition.

The owners cannot be made liable for the costs of these amenities. The land acquired by the Government is not agricultural land or accommodation land, but it is building land.

"There is a great demand for plot in this locality. The land is situated in the heart of the city. The entire area has been electrified and the Corporation has, as stated already, laid down good roads and provided all facilities for the residents of that locality. It is only within the area acquired by the Government that roads have to be laid down, necessary facilities have to be provided for the convenience of persons occupying the quarters to be constructed by the Government in that area. It is not one of those cases where the Government has acquired land in an undeveloped area for the purpose of converting it into a housing area, where naturally certain portion of the acquired land should be set apart for laying roads and other amenities have to be provided for the residents in that area. The Government should be justified in such cases in deducting the cost of the amenities from the compensation payable to the owners. This principle will not apply to a case of acquisition of a large extent of land in the occupation of a single owner and situated in the heart of the town, where all amenities have already been provided for the residents in the neighbourhood. The owner in such a case cannot be called upon to bear the cost of the amenities to be provided in his land which has been acquired by the Government for the purpose of constructing quarters for its servants."

(26) The relevant time for fixing of the market value of the acquired land is the date of notification issued under Section 4 of

the Land Acquisition Act and in the present case such a notification was issued on July 9, 1974. On behalf of the claimants, evidence of different sale transactions was led. The Tribunal noticed the same in a chart which is as under:—

Ex. document	Description and location of the land Sold (area)	Date of sale	Total sale price	Price per sq. yard	Distance from the acquired land
15	44, Com. Urban Estate No. 1 (27.08 Sq. yards)	23-10-72	22,000	812·40	379 yards
P-15	87, Do	31-1-73	22,000	812·40	379 yards
P-15	88, Do ..	31-1-73	22,250	821·63	Do
P-15	45, Do ..	6-3-74	32,500	1,200·14	Do
P-30	198, Do .. (113.33 Sq. Yards)	16-10-80	2,00,000	1,764·75	Do
P-31	207 Do .. (60 Sq. yards)	27-2-81	1,67,000	2,783·33	Do
P-68	206, Do .. (60 Sq. yards)	4-10-85	3,75,500	6,258·33	Do
P-21	17-A, Old Hospital Scheme No. 1 (12 Sq. Yards)	2-7-72	11,250	937·50	380 yards
P-21	144-E Do .. (27 sq. yards)	2-7-72	20,900	774·07	Do
P-21	22-A (Do .. (15.125 sq. yards)	Do	11,100	733·88	Do
P-21	148-E Do .. (18.259 sq. yards)	Do	20,000	1,095·35	Do
PW/18	26, New Model Anaj Mandi (12'—29')	30-12-70	22,000	569·00	1½ Km.
PW/18	27 Do ..	Do	20,200	523·00	Do
P-16	21, Defence Colony (Commercial Complex (22.69)	6-3-74	6,700	295·28	2358 yards
P-17	12 Do ..	30-1-79	20,300	894·66	Do
P-32	13 Do ..	23-2-82	84,000	3702·07	Do
P-33	36, Com. Urban Estate No. 2 near Pushpa Cinema (31.69 sq. yards)	Do	1,56,000 (—)18,750	4331·01	3179 Yards
P-69	6 Do .. (27.78 sq. yards)	4-10-82	55,500	5,597·55	Do

(27) The Tribunal also noticed the evidence of sale transactions produced on behalf of the Improvement Trust which is as under:—

Ex. of document/ date	Name of seller/ purchaser	Description	Area		Amount	Sale price per Sq. yard
20/28-1-70	Ganpat Rai/Rajjo Devi	Plot	133	Sq. Yprds.	8,000	60·00
21/27-1-70	Lalit Kumar/Ram Karan Dass etc.	Plot and const. room	1166	Do	20,000	17·20
22/6-1-75	Jagmohan/ Kaushalaya Devi	Plot	144	Do	12,000	81·00
23/28-1-70	Ganpat Rai/Jug Lal	Do	144	Do	9,000	62·50
24/2-1-70	Municipal Committee/Brij Bhushan	Do	18	Do	2,168	121·00
25/7-12-71	Municipal Committee/Vishwa Nath Brij Lal	Do	4·4	Do	387·20	88·00
26/18-4-73	Municipal Committee/Daya Nand	Do	31	Do	3,720	120·00
RW3/2/23-5-69	Ravi Kanta/Piare Lal	Do	286	Do	12,000	42·00
RW3/27-3-68	Ravi Kanta/ Chander Pal	1 Shop			10,000	
RW3/5/30-12-69	Ravi Kanta/ Chander Pal	Four shops and stairs	90	Do	12,000	3,000
RW3/6/21-9-62	Ravi Kanta/ Sheela Devi	One shop of three Khans	50	Do	9,500	
RW3/4/16-5-53	Ravi Kanta/ Manbhawati	Do	Do	Do	9,000	

(28) The contention of counsel for the claimants is that the sale transaction of March 6, 1974 whereby 27 square yards of plot in the Urban Estate No. 1 was sold for Rs. 32,500 at the rate of Rs. 12,000—14 per square yard should have been relied upon without effecting any deductions therefrom and even if some deduction is to be made on account of the said plot having been sold after fully developing the Urban Estate, the market value of the acquired land should have been fixed atleast at Rs. 900 per square yard by applying a cut of 25 per cent on the value of the plot which was sold on March 6, 1974 at the rate of Rs. 1,200.14 per square yard in the Urban Estate No. 1, only 379 yards away from the acquired

land. There is force in this contention. As already observed above, extensive development of the plot in dispute is not required as the acquired plot in dispute which is only 8686 square yards is surrounded by municipal roads on three sides. Such a matter came under consideration of the Supreme Court in *The State of Uttar Pradesh* v. *Ram Sarup and others,* (13). A very nominal cut was applied for development charges of .27 paise per square yard with respect to preferential plot and with respect to remaining plot 25 per cent cut was applied. With respect to three other sale transactions which took place in the years 1972 and 1973 in the Urban Estate No. 1, the normal appreciation of value should be applied, which was demonstrated by the sale transaction of March 6, 1974, and on that basis the market value of the acquired land can be determined, resulting as above. The Tribunal was in error in arbitrarily fixing the market value at Rs. 400 or Rs. 350 per square yard. The other sale transactions, as referred in the chart reproduced above, which are of the later years, obviously cannot be relied upon land being far away. Similar argument was addressed with respect to the sale of plots in the Old Hospital Scheme No. 1 as was addressed in respect of the sale of plots in Urban Estate No. 1, sold in July 1972 and are situated at a distance of about 380 yards from the acquired land. The normal appreciation for two years should be allowed while fixing the market value of the acquired land and deduction if any to be allowed on account of sale of developed plots. In this manner also rate would come to Rs. 900 per square yard.

(29) It has been contended on behalf of the Trust that the above sale transactions refer to small plots of land in the Urban Estate and cannot be relied upon for the purposes of fixing market value of a bigger plot. This contention in the facts and circumstances of the case cannot be accepted. The disputed plot is situated in the heart of the town, as already stated above, and it has great potential for being used for residential and commercial buildings. It is not necessary that one building should be constructed on the entire plot. In such circumstances, even sale transactions of smaller plot in the vicinity can well be the basis for fixing the market value of the plot in dispute.

(30) Even taking the principle of average of the four sale transactions of plots in Urban Estate, referred to above, the price shall be near about Rs. 900 per square yard.

(13) 1971(3) S.C. cases 857.

(31) With respect to the evidence of sale transactions produced on behalf of the Improvement Trust, it may be noticed that none of the same refers to the sale effected in the year 1974. These plots are not situated in the near vicinity of the acquired land. Further more, by allowing normal appreciation of price of the plots in the town, the market value of those plots at the relevant time would be much higher. The Tribunal, after noticing four sale transactions of Urban Estate No. 1, observed that these were of small plots on which single shop of small size could be raised. The lay out and development charges of roads, lanes, sanitation, streets etc. were included therein. After observing as above, the Tribunal fixed value of the acquired land at Rs. 400 per square yard for Belt-A and Rs. 350 per square yard for Belt-B. The fixation of the market value by the Tribunal in the facts and circumstances of the case appears to be arbitrary. Taking the value of the plot sold in March, 1974, at the rate of Rs. 1,200 per square yard in the Urban Estate No. 1, two-third of it could not be reduced on account of development charges for roads, lanes, sanitation etc. As already observed above, expenditure on the roads and lanes in the present case would not be required to be very extensive as the acquired land is surrounded by municipal roads on three sides with all the amenities. Even if cut of one-fourth is applied on the sale price of plots in the urban estate which took place in the year 1974, the market value of the acquired land could be fixed at the rate of Rs. 900 per square yard. The learned counsel for the claimants argued that no deduction in the present case should be allowed. In support of his contention, reliance has been placed on the decision of the Andhra Pradesh High Court in *Jawajee Naganatham etc.* v. *Revenue Divisional Officer, Adilabad and others,* (14). The acquired land in that case was less than half an acre (about 2178 square yards). The said property was situated in the midst of the developed area having the facility of municipal roads on all its four sides. It was observed as under:—

> "We have earlier set out that the property is situated in the midst of a developed area and have the facility of municipal roads on all its four sides. There is no need for the appellant to invest any further amount for laying roads or providing other amenities. In respect of small areas situated in such manner in the heart of the city,

(14) A.I.R. 1983 A.P. 155.

no deductions need be made to meet the expenses connected with laying of roads or providing other amenities."

(32) It has been argued on behalf of the claimants that value of the shops in dispute can be fixed while taking into consideration the rental value of the shops which were existing on the land and were requisitioned. The arbitrator had fixed Rs. 425 per mensem for two shops as would be apparent from Annexure 'P-8'. This was done in 1963 and taking into consideration the price increase index, there will be 150 per cent increase. This formula, as suggested, cannot be applied to the case in hand as the value so determined would also include value of the land as well as the super-structure. However, in view of the discussion as above, the value of the super-structure, as he has been assessed by the Tribunal is taken as correct.

(33) Since in the present case municipal roads are or three sides, the ratio of the decision of the Andhra Pradesh High Court cannot squarely be applied and taking into consideration the overall facts and circumstances of the present case, the market value of the acquired land could justly be fixed at the rate of Rs. 900 per square yard. The Tribunal was in error in fixing it at Rs. 400 and Rs. 350 per square yard for the two belts. As already observed above, the market value of the entire acquired land is fixed at a uniform rate considering its potential value at Rs. 900 per square yard.

(34) For the reasons recorded above, the four writ petitions filed by the Improvement Trust, Hissar, are dismissed with no order as to costs whereas the other three writ petitions filed by the claimants are allowed with costs with the direction to the respondents to pay compensation for the acquired land of the petitioners at the rate of Rs. 900 per square yard and value of the super-structure as fixed and thereupon 30 per cent solatium and additional amount at the rate of 12 per cent from the date of notification issued under Section 4 of the Land Acquisition Act upto the date of the award of the Collector and at the rate of 9 per cent per annum for the first year and 15 per cent for the subsequent period upto the date of payment. Award of the Tribunal is quashed. Counsel's fee Rs. 50(in each petition.

R.N.R.

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