Sayali/Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.194 OF 2021

Raghu Bhagu Sane & Others ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.90 OF 2023

Dagdu Janu Sane, deceased through LRs
Shakuntala Dagdu Sane & Ors. ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

SHABNOOR AYUB PATHAN

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Date: 2026.07.10 14:10:52 +0530

WITH
FIRST APPEAL NO.170 OF 2021

Narayan Raghu Sane (Deceased) through
his LRs Anusaya Narayan Sane (deceased_
through her LRs ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.172 OF 2021

Laxman Baburao Pilane, deceased through
his LRs Anusaya Laxman Pilane & Ors. ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.173 OF 2021

Dhondiba Ganpat Sane, deceased through
his LRs Ganesh Dhondiba Sane & Others ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.175 OF 2021

Raghu Bhagu Sane & Others ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.176 OF 2021

Dhondiba Yashwant Parthe & Others ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.177 OF 2021

Dhondiba Sakharam Sane, deceased through
his LRs Raghuji Dhondi Sane & Others ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.192 OF 2021

Baban Bhairu Sane & Others ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.200 OF 2021

Dinkar Krishna Gadekar ... Appellant

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.309 OF 2022

Bapu Krishna Mahasavade ... Appellant

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.310 OF 2022

Dhondiba Yeshwant Parte ... Appellant

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.312 OF 2022

Mahadu Bapu Shedge, deceased through
his LRs Kalabai Mahadu @ Mahadeo Shedge
& Others ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH

FIRST APPEAL NO.331 OF 2022

Baban Bhairu Sane ... Appellant

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.403 OF 2022
WITH
INTERIM APPLICATION NO.7524 OF 2025

Shivram Sakharam Parthe ... Appellant

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.408 OF 2022

Baban Dhondiba Sane & Others ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.424 OF 2022

Dinkar Krishna Godekar ... Appellant

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.593 OF 2021

Dhondiba Dagdu Sane, deceased through
his LRs Baban Dhondiba Sane & Others ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.627 OF 2022

Shivram Sakharam Parte & Others ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.650 OF 2022

Sudhir Shankar @ Dinkar Sane & Others ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.651 OF 2022

Sakharam Tukaram Sane, deceased through
his LRs Raghu Sakharam Sane & Others ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.660 OF 2022

Raghu Bhagu Sane ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.681 OF 2022

Sakharam Tukaram Sane, deceased through
his LRs Raghu Sakharam Sane & Ors. ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.685 OF 2022
WITH
INTERIM APPLICATION NO.7534 OF 2025

Rakhamaji Yeshu Chikane & Anr. ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.850 OF 2022

Rakhamaji Yeshu Chikane & Anr. ... Appellants

Vs.

The Land Acquisition Officer
No.17, Pune & Others ... Respondents

WITH
FIRST APPEAL NO.714 OF 2024
WITH
INTERIM APPLICATION NO.18491 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Sudhir Shankar alias Dinkar Sane & Ors. ... Respondents

WITH
FIRST APPEAL NO.715 OF 2024
WITH
INTERIM APPLICATION NO.18448 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Narayan Raghu Sane, deceased through his
LRs Anusaya Narayan Sane, deceased
through her LRs & Ors. ... Respondents

WITH
FIRST APPEAL NO.716 OF 2024
WITH
INTERIM APPLICATION NO.18484 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Dhondiba Yashwant Parthe & Ors. ... Respondents

WITH
FIRST APPEAL NO.717 OF 2024
WITH
INTERIM APPLICATION NO.18474 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Baban Bhairu Sane & Others ... Respondents

WITH
FIRST APPEAL NO.718 OF 2024
WITH
INTERIM APPLICATION NO.18435 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Rakhmaji Yeshu Chikane & Others ... Respondents

WITH

FIRST APPEAL NO.719 OF 2024
WITH
INTERIM APPLICATION NO.18459 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Sakharam Tukaram Sane, deceased through
his LRs Raghu Sakharam Sane & Others ... Respondents

WITH
FIRST APPEAL NO.720 OF 2024
WITH
INTERIM APPLICATION NO.18481 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Laxman Baburao Pilane, deceased through
his LRs Pradeep Laxman Pilane & Others ... Respondents

WITH
FIRST APPEAL NO.721 OF 2024
WITH
INTERIM APPLICATION NO.18469 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Sakharam Tukaram Sane, deceased through
his LRs Raghu Sakharam Sane & Others ... Respondents

WITH
FIRST APPEAL NO.722 OF 2024
WITH
INTERIM APPLICATION NO.18452 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Baban Dhondiba Sane & Others ... Respondents

WITH
FIRST APPEAL NO.723 OF 2024
WITH
INTERIM APPLICATION NO.18450 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Raghu Bhagu Sane & Others ... Respondents

WITH
FIRST APPEAL NO.724 OF 2024
WITH
INTERIM APPLICATION NO.18461 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Dhondiba Dagdu Sane, deceased through
LRs Baban Dhondiba Sane & Others ... Respondents

WITH
FIRST APPEAL NO.725 OF 2024
WITH
INTERIM APPLICATION NO.18486 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Dhondiba Yashwant Parte & Others ... Respondents

WITH
FIRST APPEAL NO.726 OF 2024
WITH
INTERIM APPLICATION NO.18488 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Bapu Krishna Mahasavade & Others ... Respondents

WITH
FIRST APPEAL NO.727 OF 2024

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Raghu Bhagu Sane & Others ... Respondents

WITH
FIRST APPEAL NO.728 OF 2024
WITH
INTERIM APPLICATION NO.18478 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Mahadu Bapu Shedge, deceased through
his LRs Smt. Kalabai Mahadu @ Mahadeo
Shedge & Others ... Respondents

WITH
FIRST APPEAL NO.729 OF 2024
WITH
INTERIM APPLICATION NO.18437 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Raghu Bhagu Sane & Others ... Respondents

WITH
FIRST APPEAL NO.730 OF 2024
WITH

INTERIM APPLICATION NO.18454 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Dinkar Krishna Godekar & Others ... Respondents

WITH
FIRST APPEAL NO.731 OF 2024
WITH
INTERIM APPLICATION NO.18493 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Rakhamaji Yeshu Chikane & Others ... Respondents

WITH
FIRST APPEAL NO.732 OF 2024
WITH
INTERIM APPLICATION NO.18439 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Dhondiba Ganpat Sane, deceased through
his LRs Ganesh Dhondiba Sane & Others ... Respondents

WITH
FIRST APPEAL NO.733 OF 2024
WITH
INTERIM APPLICATION NO.18446 OF 2022

The Acquiring Body, M.K.V.D.C.,
Nira Deoghar Irrigation Project, ... Appellant

Vs.

Baban Bhairu Sane & Others ... Respondents

Mr. Gaurav Potnis with Radhika Chittewar, & Hrucha Joshi i/by P.H. Potnis for the appellant in First Appeal Nos. 90/2023, 171/2021, 309/2022, 194/2021, 685/2022, 850/2022, 173/2021, 170/2021, 192/2021, 177/2021, 200/2021, 331/2022, 660/2022, 176/2021, 310/2022, 424/2022, 627/2022, 403/2022, 175/2021, 312/2022, 650/2022, 651/2022, 408/2022, 593/2021, 681/2022 & for the respondent in 733/2024, 715/2024, 722/2024, 723/2024, 719/2024, 727/2024, 730/2024, 732/2024, 729/2024, 724/2024, 718/2024, 725/2024, 717/2024, 728/2024, 716/2024, 720/2024, 721/2024, 714/2024, 731/2024, 726/2024.

Mr. Ashish Gabhale with Ramesh Dubepatil, Iraa Dubepatil, Arnav Urankar for the appellant in 733/2024, 715/2024, 722/2024, 723/2024, 719/2024, 727/2024, 730/2024, 732/2024, 729/2024, 724/2024, 718/2024, 725/2024, 717/2024, 728/2024, 716/2024, 720/2024, 721/2024, 714/2024, 731/2024, 726/2024 & for the respondent in 90/2023, 171/2021, 309/2022, 194/2021, 685/2022, 850/2022, 173/2021, 170/2021, 192/2021, 177/2021, 200/2021, 331/2022, 660/2022, 176/2021, 310/2022, 424/2022, 627/2022, 403/2022, 175/2021, 312/2022, 650/2022, 651/2022, 408/2022, 593/2021, 681/2022.

Mr. A. R. Patil, Additional GP for State.

CORAM : AMIT BORKAR, J.

RESERVED ON : JULY 7, 2026.

PRONOUNCED ON : JULY 10, 2026

JUDGMENT:

1. These group of references arise out of the common land acquisition proceedings relating to Village Parhar (Khurd), Taluka Bhor, District Pune. The lands were acquired for the public purpose of Neera Deoghar Project. The present group includes Land

Reference No.230 of 2003 along with Land Reference Nos.218 of 2003, 219 of 2003, 220 of 2003, 222 of 2003, 223 of 2003, 224 of 2003, 228 of 2003, 229 of 2003, 234 of 2003, 235 of 2003, 236 of 2003, 241 of 2003, 243 of 2003, 244 of 2003, 268 of 2003, 270 of 2003, 271 of 2003, 273 of 2003, 275 of 2003, 276 of 2003, 277 of 2003, 278 of 2003, 299 of 2003 and 312 of 2003. Out of these references, First Appeal No.194 of 2021 and First Appeal No.729 of 2024 arise from Land Reference No.230 of 2003. Similarly, First Appeal No.660 of 2022 and First Appeal No.723 of 2024 arise from Land Reference No.270 of 2003.

2. The notification under Section 4 of the Land Acquisition Act, 1894, for acquisition of the lands was published on 9 October 1997. Thereafter, the Land Acquisition Officer passed Award No. LAQ/17/SR/1/95 on 17 May 1999. According to the acquiring body, notice under Section 12(2) of the Act was issued on 3 June 1999. Being dissatisfied with the compensation awarded under the said award, the claimants sought reference under Section 18 of the Land Acquisition Act. The reference applications were filed on 12 July 1999.

3. Under the award, the Land Acquisition Officer classified the jirayat lands into four groups and granted compensation at different rates. Group I lands were awarded compensation at the rate of Rs.40,000/- per hectare, Group II at Rs.42,000/- per hectare, Group III at Rs.44,000/- per hectare and Group IV at Rs.46,000/- per hectare. According to the claimants, the market value fixed by the Land Acquisition Officer was much lower than the actual market value prevailing on the date of acquisition. They

claimed compensation at the rate of Rs.3,68,000/- per hectare.

4. It has also come on record that notifications relating to nearby villages were issued earlier. The notification for Village Dapkeghar was published on 6 May 1993 and the notification for Village Deoghar was published on 19 August 1993. The parties have relied upon these facts during the course of the proceedings.

5. Before the Reference Court, the claimants examined themselves in support of their claim by filing affidavit in lieu of examination in chief at Exhibit 13 and they were cross examined. The claimants also produced certified copies of the judgments in Land Reference No.70 of 1997 and Land Reference No.276 of 1997. Further, they relied upon certified copies of various sale deeds bearing Registration Nos.1017, 1748, 917, 221, 958, 1169, 1242, 1243 and 745. The claimants also produced original 7/12 extracts of Gat Nos.8/7/1, 13/4/1 and 17/2/1 along with the list of documents at Exhibits 24 and 25. They further placed on record original certificates issued by the Talathi of Villages Nirgudghar, Nandgaon and Apti.

6. Opponent No.1 filed its written statement resisting the claim and the same was produced at Exhibit 12.

7. Opponent No.2 also opposed the references by filing its written statement. It examined Pandurang Ramakant Kanjalkar, whose affidavit in lieu of examination in chief was marked at Exhibit 36, and he was cross examined. Opponent No.2 further produced documents through Exhibits 37 and 38, including letters dated 17 July 2019 and 19 July 2019 and a map of Taluka Bhor.

8. After considering the oral and documentary evidence placed by both sides, the Reference Court decided the references. Being dissatisfied with the judgment and award of the Reference Court, both the claimants as well as the acquiring body have filed the present appeals.

9. Mr. Gaurav Potnis learned counsel appearing for the claimants submitted that Village Parhar Khurd is situated in the eastern side of Bhor along with villages Dapkeghar, Deoghar, Nirgudghar, Nandgaon and Apti. It is submitted that though the eastern side of Bhor is comparatively less developed than the western side, all these villages are situated very close to each other and have similar geographical features. According to the claimants, Village Parhar Khurd shares a common boundary with Village Dapkeghar. Both these villages are situated on the southern side of River Neera, whereas Villages Deoghar, Nirgudghar, Nandgaon and Apti are situated on the northern side of the river. It is submitted that the River Neera and the Mahad Pandharpur Road divide these villages only geographically, but they are otherwise adjoining villages having similar surroundings and agricultural conditions.

10. It is submitted that the issue regarding the location of these villages is no longer in dispute in view of the findings recorded by the Coordinate Bench in First Appeal No.150 of 2009 arising out of acquisition of lands from Village Dapkeghar. Reliance is placed upon paragraphs 83 and 84 of the said judgment, wherein the Coordinate Bench has held that there was sufficient oral and documentary evidence showing the location of Villages Dapkeghar, Deoghar, Nirgudghar, Nandgaon and Apti, the distances between

them, the quality of lands and other relevant features. It is submitted that the Coordinate Bench has also observed that these villages are situated within a radius of about one to two kilometres and there was no substantial difference in the quality of lands in these villages.

11. The learned counsel submitted that even the impugned judgment of the Reference Court accepts the same factual position. Attention is invited to paragraphs 33, 37, 40, 43 and 45 of the impugned judgment. It is submitted that the Reference Court has recorded that Village Parhar Khurd and Village Dapkeghar have a common boundary and both villages are adjoining each other. The Reference Court has further noticed that the respondents did not dispute this factual position. It is also recorded that the quality of lands in both villages is the same and there is no evidence to show that the acquired lands of Village Parhar Khurd were either superior or inferior to the acquired lands of Village Dapkeghar. On that basis, the Reference Court held that the market value determined for Village Dapkeghar was applicable to the lands acquired from Village Parhar Khurd.

12. The learned counsel further submitted that even during the arguments before the Reference Court, the respondents had accepted that the compensation granted for Village Dapkeghar could be made applicable to Village Parhar Khurd, though without granting yearly escalation. According to the claimants, once the respondents themselves accepted comparability of both villages, there was no reason to deny the benefit of appropriate escalation. The learned counsel submitted that Village Parhar Khurd has

better connectivity than Village Dapkeghar. It is submitted that there is a direct bridge connecting Village Parhar Khurd to the Mahad Pandharpur Road across River Neera and the bridge is hardly about one hundred metres in length. On the other hand, Village Dapkeghar did not have such direct bridge connectivity. It is submitted that before construction of the Neera Deoghar Dam, there was hardly any water in River Neera except during the rainy season and, therefore, the bridge across the river was of small length.

13. The learned counsel further submitted that the evidence already accepted in the judgment relating to Village Deoghar shows that the Mahad Pandharpur Road was situated at some distance from Village Deoghar. According to the claimants, the position of Village Parhar Khurd is almost similar and the only distance between the village and the road is the small bridge over River Neera. It is submitted that the respondents have wrongly attempted to treat the Ring Road constructed in the year 2001 as the Mahad Pandharpur Road. However, in cross examination, the respondents have admitted that the Mahad Pandharpur Road and the Ring Road are two different roads and, therefore, no adverse inference can be drawn against the claimants on that basis.

14. The learned counsel also relied upon paragraph 78 of the judgment of the Coordinate Bench in First Appeal No.150 of 2009. It is submitted that the Coordinate Bench has already observed that there was hardly any water in River Neera during most part of the year, that the surrounding villages were connected by a small bridge, that the distances between the villages were very short,

and that the terrain, crops and agricultural conditions were substantially similar. It is submitted that though deductions may be permissible wherever a State Highway gives some additional advantage, the sale instances from the neighbouring villages cannot be rejected as incomparable.

15. The learned counsel submitted that there was no material placed by either the State or the Maharashtra Krishna Valley Development Corporation to show that Villages Nirgudghar, Nandgaon or Apti had any special development or urban growth before the acquisition. According to the claimants, no evidence has been produced to show existence of industries, commercial activities, residential layouts or any other development in those villages. It is submitted that the respondents cannot merely assume that lands adjoining the Mahad Pandharpur Road had higher non agricultural potential without leading any evidence in that regard.

16. It is further submitted that the evidence led in the earlier Deoghar references clearly shows that the lands in those villages were agricultural grass lands and were not being used for any non agricultural purpose. According to the claimants, merely because a land is situated near a road, it cannot automatically be treated as having non agricultural potential. The existence of road by itself is not sufficient unless there is evidence showing actual development or likelihood of immediate non agricultural use. The learned counsel submitted that the award passed by the Special Land Acquisition Officer itself supports the claimants. It is pointed out that the Land Acquisition Officer has specifically recorded that there were no sale instances available from Village Parhar Khurd

because after issuance of notifications under the rehabilitation law, no sale transactions had taken place in the village. Therefore, the Land Acquisition Officer himself collected sale instances from adjoining villages for determining the market value.

17. It is submitted that the Land Acquisition Officer visited the villages personally and, after examining the nature and quality of the acquired lands, relied upon sale instances from Villages Apti, Kari, Nandgaon and Nirgudghar. According to the claimants, the Land Acquisition Officer himself found that the lands in these villages were of similar and inferior quality and, therefore, considered those sale instances as proper comparable instances. The learned counsel submitted that once the acquiring authority itself selected these villages as comparable villages, the respondents cannot now contend that those sale instances are not comparable. The learned counsel further submitted that though the Land Acquisition Officer discussed different methods like Ready Reckoner, ICM Method and Assessment Method, he ultimately fixed the market value by adopting the sale statistics method after considering the average of comparable sale transactions and granting notional yearly increase upto the date of Section 4 notification. It is submitted that this fact has also been recorded by the Reference Court in paragraph 22 of the impugned judgment.

18. The learned counsel argued that assessment entries, Ready Reckoner rates and similar methods cannot legally determine market value under the Land Acquisition Act. Reliance is placed upon the decisions in *State of Maharashtra and Ors. Vs. Baliram*

Girdhar Patil, MANU/MH/0803/2006 : (2006) (6) MhLJ 82, *State of West Bengal Vs. Shyampada and Ors.*, MANU/SC/0430/1975 : (1976) 3 SCC 66, *P. Ram Reddy and Ors. Vs. Land Acquisition Officer, Hyderabad Urban Development Authority, Hyderabad and Ors.*, MANU/SC/0597/1995 : (1995) 2 SCC 305, *Land Acquisition Officer, Eluru and Ors. Vs. Jasti Rohini and Ors.*, MANU/SC/ 0583/1995 : (1995) 1 SCC 717. It is submitted that these decisions lay down that market value has to be determined on the basis of comparable sale transactions and not on revenue assessment, Ready Reckoner or similar methods.

19. The learned counsel further submitted that the acquired lands are flat agricultural lands situated on the southern bank of River Neera. According to the claimants, lands acquired for creation of a reservoir or catchment area are naturally situated on plain lands adjoining the river because water can spread only over such lands. It is submitted that the dam wall itself was constructed between Villages Deoghar and Salav, which supports the case that the acquired lands were flat lands and not hilly lands.

20. Lastly, the learned counsel submitted that the legal principles governing determination of compensation are well settled. Reliance is placed upon paragraphs 52 and 54 of the judgment in First Appeal No.150 of 2009 as well as the decisions in *Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and Ors.,* MANU/SC/0071/1988: AIR 1988 SC 1652, *Land Acquisition Officer, Eluru and Ors. Vs. Jasti Rohini and Ors.,* MANU/SC/0583/ 1995: (1995) 1 SCC 717.

21. It is submitted that a reference under Section 18 is an original proceeding and the Reference Court has to determine the market value afresh on the basis of evidence produced before it. According to the claimants, once sufficient material is produced showing that the compensation awarded by the Land Acquisition Officer is inadequate, the burden shifts upon the State and the acquiring body to justify the compensation offered in the award. The market value has to be assessed as on the date of publication of the notification under Section 4 by assuming a willing purchaser and a willing seller in an open market transaction.

22. The learned counsel appearing for the claimants submitted that the acquiring body has failed to place any substantial evidence before the Reference Court in support of the award passed by the Land Acquisition Officer. It is submitted that except filing the affidavit of its witness and producing a map, no independent material has been brought on record. According to the claimants, the acquiring body has neither produced any comparable sale instances nor led any evidence to show that the market value determined by the Land Acquisition Officer was correct. It is further submitted that the sale instances relied upon by the claimants were also not specifically challenged by the acquiring body.

23. The learned counsel submitted that the evidence of the witness examined by the Maharashtra Krishna Valley Development Corporation itself shows that he had no personal knowledge about the acquisition proceedings. It is submitted that during the year 1997, when the acquisition took place, the said witness was

serving in the Irrigation Department at Nanded and was not connected with the Neera Deoghar Project. According to the claimants, the witness admitted in his cross examination that he did not know whether Villages Dapkeghar, Parhar Khurd, Parhar Budruk and Deoghar were included in the project. He also admitted that he was not aware whether these villages were adjoining each other and that he had no knowledge regarding the quality of the acquired lands as he was not associated with the project at the relevant time.

24. The learned counsel further submitted that the said witness admitted that a portion of the old Mahad Pandharpur Road had gone under water after construction of the Neera Deoghar Project. He also admitted that the Ring Road was constructed only after the year 2001. According to the claimants, the witness further admitted that the road shown in the map produced by the respondents was not the old Mahad Pandharpur Road but the Ring Road constructed subsequently. It is submitted that he also admitted that the Ring Road was not a straight road and that he had not produced any map showing the old Mahad Pandharpur Road. It is further submitted that the witness admitted that the distances mentioned in the letter produced by the acquiring body were calculated with reference to the Ring Road and not with reference to the original villages or the lands which were submerged because of the project. According to the claimants, he also admitted that the Ready Reckoner rates are meant only for stamp duty purposes and that he was not personally present when the lands were acquired. The learned counsel submitted that these

admissions clearly show that the witness had no personal knowledge either about the acquisition proceedings or about the condition and quality of the acquired lands as they existed on the date of acquisition. According to the claimants, his evidence is therefore only based on subsequent information and not on his own knowledge of the relevant facts.

25. The learned counsel further submitted that the acquiring body examined Mr. Pandurang Ramakant Kanjalkar only to support the award, but his evidence also suffers from the same defects. It is submitted that Mr. Kanjalkar was not working in the Neera Deoghar Project when the acquisition took place in the year 1997. According to the claimants, he admitted in his cross examination that he had not even read the award passed by the Land Acquisition Officer. It is, therefore, argued that a witness who has no knowledge of the award itself cannot effectively support the correctness of the award before the Court. It is further submitted that Mr. Kanjalkar claimed to have inspected the lands in the year 2017. According to the claimants, the acquired lands had already gone under water after completion of the project many years earlier. Therefore, it is argued that it was not possible for him to assess the original nature, quality or condition of the acquired lands by visiting the site nearly two decades after the acquisition and after the lands had already remained submerged. The claimants therefore submitted that such evidence deserves no evidentiary value. The learned counsel also submitted that Mr. Kanjalkar admitted in his cross examination that the map produced by the respondents was not a map relating to the

original submergence area of the Neera Deoghar Project. According to the claimants, the map actually relates to the Ring Road developed under the Road Development Scheme for the period from the year 2001 onwards. It is submitted that such a map does not represent the actual position existing on the date of acquisition and, therefore, cannot be treated as a reliable document for deciding the market value of the acquired lands. The learned counsel further submitted that even the admissions given by Mr. Kanjalkar in his cross examination support the case of the claimants that the road shown in the map is the Ring Road and not the Mahad Pandharpur Road. According to the claimants, these admissions materially weaken the case of the acquiring body and make the map unreliable for deciding the controversy.

26. The learned counsel lastly submitted that the map and the letter produced by the acquiring body also contain material inconsistencies regarding distances. It is pointed out that the letter produced by the respondents mentions the distance between Bhor and Village Parhar Khurd as 33 kilometres. However, according to the award passed by the Land Acquisition Officer itself, the distance between Bhor and Village Parhar Khurd is shown as 20 kilometres. It is submitted that this contradiction itself creates serious doubt regarding the correctness of the letter relied upon by the respondents. According to the claimants, since the map also depicts the Ring Road constructed after the acquisition and not the original Mahad Pandharpur Road existing at the relevant time, both these documents deserve little evidentiary value and cannot be relied upon while determining the market value of the acquired

lands.

27. The learned counsel appearing for the claimants submitted that the claimants have produced several comparable sale deeds before the Reference Court relating to Villages Apti, Nandgaon and Nirgudghar. It is submitted that these are the very villages whose sale instances were also relied upon by the Land Acquisition Officer while determining the compensation. According to the claimants, all the sale transactions relate to jirayat or gavatpad lands and are comparable in nature. It is submitted that neither the State nor the acquiring body has specifically challenged these sale deeds. Even the witness examined on behalf of the acquiring body has not disputed or commented upon the genuineness or comparability of these sale instances. Therefore, according to the claimants, the sale deeds have remained unchallenged and deserve full evidentiary value. Reliance is placed upon the decision in *Land Acquisition Officer and Mandal Revenue Officer Vs. V. Narasaiah*, MANU/SC/0137/2001 : (2001) 3 SCC 530, to contend that unchallenged bona fide sale instances can safely be relied upon for determining market value.

28. The learned counsel submitted that while deciding the acquisition relating to Village Dapkeghar, the Coordinate Bench of this Court had considered eight sale instances produced in that case. It is submitted that after examining all the sale transactions, the Coordinate Bench found that sale instances at Exhibits 13, 17 and 19 were the most appropriate comparable instances. According to the claimants, the Coordinate Bench had already granted yearly escalation at the rate of twelve per cent up to the

date of notification issued for Village Dapkeghar on 6 May 1993 while working out the market value.

29. The learned counsel further submitted that the claimants have also relied upon the earlier judgments relating to Villages Dapkeghar and Deoghar. According to the claimants, it is well settled that judgments relating to earlier acquisitions involving comparable lands can be relied upon while determining the market value in subsequent acquisitions, provided the lands are similarly situated. It is submitted that after giving escalation up to the notification dated 9 October 1997 involved in the present acquisition, the compensation determined for Village Dapkeghar comes to about Rs.3,13,981/- per hectare, whereas the compensation determined for Village Deoghar comes to about Rs.3,36,847/- per hectare. According to the claimants, the average of these two comparable rates works out to about Rs.3,25,414/- per hectare and, therefore, the compensation in the present case cannot be less than the said figure.

30. The learned counsel then submitted that the Reference Court ought to have adopted the highest bona fide comparable sale instance while determining the market value. According to the claimants, the Supreme Court has consistently held that where several comparable sale instances are available, the highest bona fide sale should normally be accepted unless the sale transactions fall within a narrow range of prices. It is submitted that in the present case there is a substantial difference of about thirty to fifty per cent between the sale instances and, therefore, they cannot be said to fall within a narrow bandwidth. According to the claimants,

in such circumstances the highest comparable sale instance should have been accepted.

31. The learned counsel submitted that the sale transaction bearing Registration No.958 of Village Nandgaon, reflecting the value of about Rs.4,31,217/- per hectare, is the highest comparable bona fide transaction and should have been taken as the basis for determining the market value. According to the claimants, though the judgment relating to Village Dapkeghar discussed the legal principle that ordinarily the highest bona fide sale instance should be preferred, the Coordinate Bench ultimately adopted a different approach by taking comparable sale instances within a particular range. The claimants submit that in the facts of the present case, the principle laid down by the Supreme Court requiring acceptance of the highest bona fide sale instance deserves to be applied.

32. In support of this submission, reliance is placed upon the decisions of the Hon'ble Supreme Court in *Mehrawal Khewaji Trust, Faridkot and Ors. Vs. State of Punjab and Ors*., 2012 SAR (Civil) 441: MANU/SC/0349/2012*, M. Vijayalakshmamma Rao Bahadur Vs. The Collector of Madras*, MANU/SC/0309/1963*, State of Punjab and Ors. Vs. Hans Raj (Dead) by Lrs. Sohan Singh and Ors.*, MANU/SC/0830/1994*, Anjani Molu Dessai Vs. State of Goa and Ors.*, MANU/SC/1156/2010*,* Manohar and Ors. Vs. The State of Maharashtra and Ors.*,* 2025 (5) BCR (SC) 418: MANU/SC/0989/2025. According to the claimants, these decisions consistently hold that while determining compensation in compulsory acquisition cases, the highest genuine comparable sale

transaction should ordinarily be preferred unless there are special reasons for adopting any other method.

33. The learned counsel also relied upon paragraphs 64 and 90 of the judgment of the Coordinate Bench in First Appeal No.150 of 2009 arising from Village Dapkeghar. It is submitted that the Coordinate Bench has held that the Reference Court should not merely calculate an average of all sale instances without examining their individual comparability. According to the claimants, the Court must first identify those sale transactions which are comparable with regard to distance, time and quality of land. Only thereafter, if those comparable sale transactions fall within a similar range, can the principle of averaging be applied. Otherwise, the highest bona fide comparable sale instance should ordinarily govern the determination of market value. The learned counsel further submitted that paragraph 90 of the said judgment reiterates the settled principle that in cases of compulsory acquisition there is no reason to place land owners in a disadvantageous position and, therefore, the highest bona fide comparable exemplar deserves preference.

34. The learned counsel also referred to paragraph 92 of the judgment in First Appeal No.150 of 2009. It is submitted that though the Coordinate Bench ultimately determined compensation for Village Dapkeghar at Rs.2,05,000/- per hectare after making deductions on account of certain minus factors such as absence of the Mahad Pandharpur State Highway and other amenities, it also recorded that the lands of Village Dapkeghar were plain jirayat lands situated on the southern bank of River Neera, were under

cultivation and did not require any deduction towards development charges since the acquisition itself was for submergence under the project. According to the claimants, these observations equally support the case of Village Parhar Khurd as the lands possess similar physical characteristics.

35. Lastly, the learned counsel submitted that if the three highest comparable sale transactions produced by the claimants are taken into consideration and suitable escalation is granted up to the date of notification under Section 4 of the Land Acquisition Act, the average market value works out to about Rs.5,33,114/- per hectare. According to the claimants, since the law governing compulsory acquisition requires the Court to award just and fair compensation based on the most beneficial bona fide comparable evidence available on record, the compensation deserves to be enhanced on the basis of the said sale transactions.

36. The learned counsel appearing for the claimants submitted that the comparable sale instances produced on record relate to the period from the year 1989 to 1993, whereas the notification under Section 4 of the Land Acquisition Act in the present case was published on 9 October 1997. According to the claimants, after the rehabilitation notifications came into force, no sale transactions took place in the acquired area and, therefore, no later sale instances were available. It is submitted that while determining the market value as on the date of the Section 4 notification, appropriate yearly escalation is required to be granted on the earlier sale instances so as to bring them to the relevant date of valuation.

37. The learned counsel submitted that even the Land Acquisition Officer had adopted yearly escalation at the rate of twelve per cent while determining the market value of the acquired lands. According to the claimants, this itself shows that the acquiring authority accepted the principle that the prices of agricultural lands normally increase with the passage of time and suitable escalation is required where comparable sale transactions are of an earlier period.

38. The learned counsel further submitted that the concept of granting twelve per cent yearly escalation is consistent with the scheme of the Land Acquisition Act after introduction of Section 23(1A). It is submitted that the legislative intention behind providing such increase is to compensate for the rise in land prices occurring over a period of time. According to the claimants, when earlier sale transactions are relied upon as comparable instances, similar escalation has to be granted so that the market value reflects the prevailing price on the date of publication of the notification under Section 4.

39. The learned counsel submitted that the Reference Court committed an error in refusing to grant escalation at the rate of twelve per cent per annum. It is argued that while the Reference Court accepted the compensation determined in the judgment relating to Village Dapkeghar as the basis for deciding the present references, it did not adopt the same method followed by the High Court for calculating the market value. According to the claimants, once the Reference Court relied upon the judgment relating to Village Dapkeghar, it ought to have granted the same yearly

escalation which had already been applied by the High Court while determining the compensation in that case. It is further submitted that the Reference Court selectively accepted only the final rate awarded in the Dapkeghar judgment but ignored the reasoning adopted for arriving at that rate. According to the claimants, such selective reliance is not permissible because the entire method of valuation adopted by the High Court should have been followed if the judgment itself was treated as the guiding precedent.

40. The learned counsel also submitted that the evidence on record itself indicates substantial increase in land prices during the relevant period. According to the claimants, the difference between the lowest and highest comparable sale transactions reflects considerable yearly appreciation in market value. It is submitted that the available material itself supports grant of at least twelve per cent yearly escalation and, according to the claimants, even a higher increase could have been justified on the facts of the case. In support of these submissions, reliance is placed upon the decision reported in *Balwant singh vs. State of Haryana*, 2019 (4) SCC 472 : (2019) 2 SCC (Civil) 571, wherein yearly escalation at the rate of twelve per cent was accepted, as also upon the decision in *Gajanan Pandurang Kamat and others Vs. Special Land Acquisition Officer,* 2001 (Supp.) LACC 282.

41. The learned counsel further relied upon paragraph 35 of the judgment of the Coordinate Bench in First Appeal No.150 of 2009 arising out of Village Dapkeghar. It is submitted that the Coordinate Bench specifically observed that except one sale instance, all the comparable sale deeds were prior to the Section 4

notification and that the Reference Court had granted escalation at the rate of twelve per cent per annum. According to the claimants, the Coordinate Bench also recorded that such rate of escalation had not been challenged by any party and was supported by the material available on record.

42. The learned counsel then referred to paragraphs 45 and 46 of the impugned judgment. It is submitted that the Reference Court itself has recorded that the respondents were willing to accept the compensation awarded for Village Dapkeghar but without granting any escalation, whereas the claimants specifically claimed yearly escalation at the rate of twelve per cent. According to the claimants, the Reference Court accepted that the notification in the present case was issued about four years after the notification relating to Village Dapkeghar and also accepted that there would naturally be an increase in market value during this intervening period. However, the learned counsel submitted that despite recording these findings, the Reference Court restricted the escalation to only six per cent per annum on the ground that there was no evidence showing commercial development in the area. According to the claimants, this approach is legally incorrect because grant of yearly escalation is not dependent upon proving that the acquired lands had commercial potential. It is submitted that escalation is granted to account for the normal increase in market value over a period of time, particularly where earlier comparable sale transactions are relied upon. Therefore, according to the claimants, the Reference Court ought to have granted escalation at the rate of twelve per cent per annum instead of

restricting it to six per cent.

43. The learned counsel appearing for the claimants submitted that the sale instances relied upon by the claimants are from neighbouring villages which are situated at a very short distance from the acquired lands. It is submitted that the evidence of the claimants shows that Village Nandgaon is about 3 kilometres from Village Parhar Khurd, Village Nirgudghar is about 1 kilometre away and Village Apti is about 2 kilometres away. It is further submitted that the Mahad Pandharpur Road is adjacent to Village Parhar Khurd and Village Deoghar lies on its boundary. According to the claimants, all these villages are situated within a radius of about two to three kilometres and, therefore, the sale transactions from these villages constitute proper and reliable comparable sale instances for determining the market value of the acquired lands.

44. The learned counsel submitted that the Courts have accepted sale transactions relating to lands situated at such distances where the lands possess similar characteristics and quality. Reliance is placed upon the decision reported in *The State of Maharashtra vs. Abdul Sattar Abdul Wahab,* 1994 (2) Mh.L.J. 1183, wherein comparable sale instances situated at a distance of about two and half kilometres were accepted as proper evidence for determination of market value because the lands were found to possess similar characteristics and potential.

45. The learned counsel further submitted that no deduction is required while relying upon the sale instances produced by the claimants because the acquired lands and the lands covered by the

sale deeds are similar in every material respect. According to the claimants, all the lands are jirayat agricultural lands of similar quality and none of them are developed plots. It is submitted that even the Land Acquisition Officer, while passing the award, treated the lands of Village Parhar Khurd and the adjoining villages as comparable in quality. It is also pointed out that the evidence led by the acquiring body itself shows that there was no substantial difference in the nature and quality of the lands situated in these villages. Therefore, according to the claimants, there is no justification for making any deduction on the ground of difference in quality or development.

46. The learned counsel submitted that the purpose of acquisition is also an important circumstance while considering deductions. According to the claimants, the lands in the present case were acquired only for submergence under the Neera Deoghar Project. Since the lands were never intended to be developed for any residential, commercial or industrial purpose, no expenditure towards roads, drainage, civic amenities or other developmental works was required. It is therefore submitted that the usual deductions applied in cases of acquisition for development projects have no application in the present case. It is further submitted that the sale instances relied upon by the claimants also relate to agricultural jirayat lands of similar nature and quality. According to the claimants, there is complete similarity between the acquired lands and the lands covered by the sale deeds. Therefore, there is no reason to reduce the value reflected in the comparable sale transactions by making deductions

either for development or for any other reason.

47. The learned counsel also submitted that there cannot be any deduction merely because the sale transactions relate to comparatively small parcels of land. It is submitted that the individual holdings acquired from the claimants are themselves of small extent. Therefore, the size of the sale instances is comparable with the size of the individual acquired holdings and no substantial deduction is called for on that count.

48. In support of this submission, reliance is placed upon paragraphs 69, 70, 71 and 74 of the judgment of the Coordinate Bench in First Appeal No.150 of 2009 arising from Village Dapkeghar. It is submitted that the Coordinate Bench has specifically held that the comparison should be made with the individual acquired holdings and not with the total area acquired under the entire project. According to the claimants, the Coordinate Bench found that most of the individual holdings acquired in those cases were below one hectare and were comparable with the sale instances relied upon before the Court. Therefore, it was held that such sale instances could not be rejected merely because they related to smaller areas. The learned counsel further submitted that the Coordinate Bench has also observed that deductions on account of development are generally applied where undeveloped lands are acquired for residential, commercial or institutional projects requiring expenditure on roads and civic amenities. According to the claimants, the present acquisition stands on an entirely different footing because the lands were acquired only for submergence in the dam waters.

Consequently, no development activities were either contemplated or required. It is submitted that the Coordinate Bench also noticed the evidence of the officer of the Maharashtra Krishna Valley Development Corporation that the Neera Deoghar Dam is an earthen dam and earth required for the project was taken from nearby villages. The learned counsel submitted that paragraph 71 of the judgment further explains that deductions depend upon the facts of each case and ordinarily relate to expenditure required for development of acquired lands or where very small developed plots are compared with large undeveloped tracts. According to the claimants, neither of these situations exists in the present case. It is also submitted that in paragraph 74 of the said judgment, the Coordinate Bench ultimately held that though limited deductions may be permissible depending upon the facts of the case, the comparable sale instances cannot be discarded merely because they relate to smaller areas. According to the claimants, the Coordinate Bench also recorded that there was no appreciable difference between the quality of the exemplar lands and the acquired lands and that the acquisition was only for submergence under the dam project and not for any developmental activity. The claimants submit that the same reasoning squarely applies to the present acquisition.

49. The learned counsel further relied upon the decisions in *Anjani Molu Dessai Vs State of Goa and Ors.,* (2010) 13 SCC 710*, Rishi Pal Singh and Ors. Vs. Meerut Development Authority and Ors.,* (2006) 3 SCC 205*, Revenue Divisional Officer-Cum-L.A.O. Vs. Azam Saheb and Ors.,* (2009) 4 SCC 395 *and Viluben Jhalejar*

Contractor (D) by Lrs. Vs. State of Gujarat, (2005) 4 SCC 789. It is submitted that these decisions recognise that deductions towards development are not warranted where the acquired lands and the exemplar lands are similar in nature and where the acquisition is not for developmental purposes. It is also submitted that the judgments recognise that small sale transactions cannot be rejected merely because of their size if no better comparable evidence is available. According to the claimants, even if this Court is of the opinion that some adjustment is required because certain exemplar lands are closer to the highway, such adjustment should be minimal, as the lands in Village Parhar Khurd, Dapkeghar, Nandgaon, Nirgudghar and Apti are all situated in the same river basin and possess substantially similar physical features and agricultural quality.

50. The learned counsel appearing for the claimants submitted that the reference applications under Section 18 of the Land Acquisition Act have been filed well within the prescribed period of limitation. It is submitted that none of the respondents have produced any satisfactory material to establish that the references were barred by limitation. According to the claimants, though the burden of proving inadequacy of compensation lies upon the claimants, once the respondents raise an objection regarding limitation, they are required to establish the factual basis of such objection by producing the necessary evidence. The learned counsel submitted that the applications under Section 18 were filed on 12 June 1999. According to the claimants, although the respondents have referred to notices under Section 12(2) of the

Act allegedly issued on 3 June 1999, no documentary evidence showing actual service of such notices upon the claimants has been produced before the Court. It is submitted that the respondents relied only upon the report submitted by the Land Acquisition Officer and not upon any acknowledgment or proof of service.

51. The learned counsel further submitted that even if the respondents' case regarding service of notice dated 3 June 1999 is accepted for the sake of argument, the reference applications filed on 12 July 1999 are still within the period of six weeks prescribed under the Act. It is therefore submitted that on either view of the matter, the references cannot be treated as barred by limitation. It is further submitted that the copy of the award was never supplied to the claimants along with the alleged notice under Section 12(2). According to the claimants, mere knowledge that an award has been passed is not sufficient for commencement of limitation. It is submitted that effective communication of the essential contents of the award or supply of a copy of the award is necessary before limitation can begin to run against the land owners. The learned counsel relied upon paragraph 118 of the judgment of the Coordinate Bench in First Appeal No.150 of 2009 arising from Village Dapkeghar. It is submitted that the Coordinate Bench has held that in the absence of evidence proving issuance and service of notices under Section 12(2), the objection regarding limitation cannot be accepted. It is further observed therein that once the claimants discharge their initial burden, the burden shifts upon the State and the Special Land Acquisition Officer, who are in possession of the relevant records, to establish proper service of

notice. According to the claimants, failure of the respondents to produce the best available evidence warrants an adverse inference against them.

52. The learned counsel also relied upon paragraphs 123 to 127 of the same judgment. It is submitted that the Coordinate Bench, after considering the decision of the Supreme Court in *Premji Nathu,* AIR 2012 SC 1624, held that before rejecting a reference on the ground of limitation, it must be established that a copy of the award had also been served along with the notice issued under Section 12(2). Reliance is also placed upon the decision in *State of Maharashtra Vs. Vishwas V. Gedam*, 2015 (5) Mh LJ 344, wherein it has been held that where the claimant was not present or represented at the time of making of the award, limitation would commence only after supply of the copy of the award.

53. The learned counsel further submitted that the judgments of the Supreme Court in *Raja Harish Chandra Raj Singh Vs. Deputy Land Acquisition Officer,* AIR 1961 SC 1500*,* and *State of Punjab Vs. Mst. Qaisar Jehan Begum,* AIR 1963 SC 1604 hold that the expression "date of the award" occurring in Section 18 cannot be interpreted in a literal or mechanical manner. According to the claimants, limitation begins only when the affected person acquires actual or constructive knowledge of the essential contents of the award. Therefore, unless the respondents prove proper communication of the award in accordance with law, the objection regarding limitation deserves to be rejected.

54. The learned counsel submitted that the decisions relied upon by the respondents before the Coordinate Bench were distinguished on facts because in those cases there was clear proof of service of notices under Section 12(2), whereas no such evidence is available in the present matter. According to the claimants, the legal principles laid down in *Premji Nathu* and the subsequent decisions support the maintainability of the present references.

55. The learned counsel further submitted that even the Reference Court has rejected the objection regarding limitation. Attention is invited to paragraph 15 of the impugned judgment, wherein the Reference Court has held that assuming the notice under Section 12(2) was served on 3 June 1999, the reference applications filed on 12 July 1999 were still within six weeks from the date of service and, therefore, were well within limitation. According to the claimants, this finding does not call for any interference.

56. The learned counsel next submitted that if this Court ultimately determines the market value at a rate higher than the amount claimed in the reference applications, the claimants should be permitted to pay the requisite additional court fees and receive compensation accordingly. It is submitted that determination of the correct market value is the statutory duty of the Court under Section 23 of the Land Acquisition Act and the claimants should not be deprived of lawful compensation merely because the amount originally claimed was lower. Reliance is placed upon the decision of the Supreme Court in *Bhimasha Vs. Special Land*

Acquisition Officer and others, (2008) 10 SCC 797.

57. The learned counsel lastly submitted that once the market value is enhanced, the claimants would also be entitled to all consequential statutory benefits available under the Land Acquisition Act. According to the claimants, they are entitled to solatium under Section 23(2), additional amount under Section 23(1A) from the date of the notification till the date of the award and interest under Section 28 on the enhanced compensation as provided under the Act.

58. On the basis of the sale transactions relied upon by the claimants, the earlier judgments relating to Villages Dapkeghar and Deoghar and the escalation claimed by them, the learned counsel submitted that the claimants are entitled to enhanced compensation at the rate of Rs.4,31,217/- per hectare together with all statutory benefits under the Land Acquisition Act.

59. Mr. A. R. Patil learned Additional Government Pleader appearing for the State and Mr. Gabhale learned counsel appearing for the acquiring body supported the judgment of the Reference Court to the extent it declined to grant the compensation claimed by the claimants. It is submitted that the claimants have failed to establish that the lands of Village Parhar (Khurd) possess the same location, potential and market value as the lands acquired from Village Dapkeghar or other neighbouring villages. The learned Additional Government Pleader invited attention to the evidence of the claimants and submitted that the claimants themselves have admitted that River Neera lies between

Village Parhar (Khurd) and the Mahad Pandharpur Road. According to the respondents, the existence of the river between the acquired lands and the main road is a disadvantage affecting accessibility and market value. It is submitted that the Reference Court has not given due weight to this important circumstance while determining compensation. It is further submitted that in the cross examination, the claimants admitted that there is a stream between Villages Parhar (Khurd) and Parhar (Budruk) and that Village Dapkeghar is situated towards the eastern side of Village Parhar (Khurd). According to the respondents, these geographical features indicate that the acquired lands cannot be treated as identical to the lands situated in other villages merely because they are nearby.

60. The learned Additional Government Pleader further relied upon the evidence of Mr. Pandurang Ramakant Kanjalkar, Sub Divisional Engineer of the Maharashtra Krishna Valley Development Corporation. It is submitted that Mr. Kanjalkar had been working in the Neera Deoghar Project area for more than two years and was familiar with the locality. According to the respondents, he deposed that the project area is about 18 kilometres from Bhor city and that, for verifying the distances of the villages, he obtained a certificate from the Deputy Executive Engineer of the Public Works Department. It is submitted that the certificate produced by Mr. Kanjalkar shows that the distance between Bhor and Village Parhar (Khurd) is about 33 kilometres and the distance between Bhor and Village Parhar (Budruk) is about 36 kilometres. The certificate further shows that the distance

between Bhor and Village Dapkeghar is about 24.50 kilometres. According to the respondents, this demonstrates that Village Dapkeghar is substantially closer to Bhor than Village Parhar (Khurd), and this difference in distance is a relevant circumstance while assessing market value.

61. The learned Additional Government Pleader further submitted that Mr. Kanjalkar also stated that both Villages Parhar (Khurd) and Parhar (Budruk) are situated between hills. According to the respondents, this is another circumstance affecting the potential and value of the acquired lands. It is submitted that the claimants did not effectively challenge this part of the witness's evidence in cross examination. According to the respondents, except putting questions regarding the Ring Road referred to in the certificate, there was no serious challenge to the evidence relating to the distance of the villages from Bhor or to their topographical features. Therefore, it is submitted that this part of the evidence remained substantially uncontroverted.

62. In support of these submissions, reliance is placed upon the decision of the Supreme Court in *Kanwar Singh and others Vs. Union of India,* (1998) 8 SCC 136. It is submitted that the Supreme Court has held that lands situated in different villages cannot automatically be treated as comparable because each village may have different location, surroundings and development potential. According to the respondents, the burden lies upon the claimants to establish that the lands in different villages possess similar advantages and potential before relying upon sale instances from those villages.

63. The learned Additional Government Pleader also relied upon the decision of the Supreme Court in *P. Ram Reddy and others Vs. Land Acquisition Officer, Hyderabad and others,* (1995) 2 SCC 305. It is submitted that the Supreme Court has held that in land acquisition matters the Court is not required to accept every statement made by a witness merely because it has not been specifically challenged in cross examination. According to the respondents, the Court is required to examine the evidence on the basis of surrounding circumstances, probabilities and ordinary human conduct before accepting it. It is submitted that public money cannot be awarded merely because certain evidence remains formally unchallenged. On that basis, the respondents contend that the findings recorded in the judgment relating to Village Dapkeghar cannot automatically be extended to the present acquisition.

64. The learned counsel appearing for the acquiring body further submitted that even the sale instances relied upon in the judgment relating to Village Dapkeghar do not support the claim of continuous increase in market value. It is submitted that one sale transaction dated 17 July 1989 reflected a higher rate per guntha, whereas another sale transaction dated 6 September 1990 relating to a larger area reflected a lower rate. Similarly, according to the respondents, the sale transactions from Village Nandgaon also show variation in rates. It is submitted that some sale deeds executed after the notification relating to Village Dapkeghar reflected lower rates than earlier transactions. Therefore, according to the respondents, the sale transactions themselves do

not establish any consistent increase in market value.

65. The learned counsel for the acquiring body submitted that the notification relating to Village Dapkeghar was issued in the year 1993, whereas the notification in the present case was issued only in the year 1997. According to the respondents, merely because there is a gap of four years, the claimants are not automatically entitled to yearly escalation at the rate of twelve per cent. It is submitted that escalation can be granted only when there is reliable evidence showing actual increase in market value during the relevant period.

66. In support of this contention, reliance is placed upon the judgment of the Supreme Court in *Land Acquisition Officer Vs. B. Vijender Reddy and others,* (2001) 10 SCC 669. It is submitted that in the absence of satisfactory evidence showing increase in market value, the Supreme Court declined to grant escalation. According to the respondents, the same principle should be applied in the present case and the claim for twelve per cent yearly escalation deserves to be rejected.

67. In reply, the Mr. Potnis learned counsel appearing for the claimants submitted that the certificate relating to distance relied upon by the respondents has not been proved in accordance with law because the officer who prepared or certified the document was never examined before the Court. According to the claimants, in the absence of examination of the author of the document, the certificate cannot be treated as reliable evidence for determining the distance between the villages. It is further submitted on behalf

of the claimants that the certificate relied upon by the respondents was issued in the year 2019, whereas the acquisition took place in the year 1997 and the villages had already gone under submergence thereafter. According to the claimants, the distances mentioned in the certificate are therefore of no assistance for determining the market value as it existed on the date of acquisition. The learned counsel for the claimants lastly submitted that the distance from Bhor city is not the decisive factor in determining market value. According to the claimants, both the Land Acquisition Officer and the Coordinate Bench in the Dapkeghar case relied upon sale transactions from Villages Nandgaon, Nirgudghar and Apti while determining compensation. It is submitted that the Land Acquisition Officer himself recorded that Village Dapkeghar is situated near Villages Parhar (Khurd) and Parhar (Budruk). The claimants further submitted that the Coordinate Bench has already accepted yearly escalation at the rate of twelve per cent while determining compensation for Village Dapkeghar and that even the Land Acquisition Officer had adopted the same rate of escalation in the award. Therefore, according to the claimants, the same principle deserves to be applied in the present case also.

REASONS AND ANALYSIS:

68. The present group of appeals arise out of common acquisition of agricultural lands situated at Village Parhar (Khurd), Taluka Bhor, District Pune, for the public purpose of Neera Deoghar Project. Since all these references arise from the same notification issued under Section 4 of the Land Acquisition Act,

1894, the evidence led by the parties, the issues involved and the rival submissions are common. Hence, all these appeals are being decided by this common judgment. Though Land Reference No.230 of 2003 is treated as the lead matter for convenience, the findings recorded herein shall govern all connected appeals also, to the extent they are applicable to the facts of each reference.

69. There is no dispute between the parties that the notification under Section 4 of the Act was published on 9 October 1997 and thereafter the award came to be declared on 17 May 1999. It is also not in dispute that the Land Acquisition Officer divided the jirayat lands into four groups and awarded compensation ranging from Rs.40,000/- to Rs.46,000/- per hectare depending upon the classification made by him. The claimants were not satisfied with the said compensation as according to them it did not represent the market value prevailing on the date of notification. Therefore, they sought references under Section 18 of the Act claiming compensation at the rate of Rs.3,68,000/- per hectare. The Reference Court, after appreciating the material placed before it, partly enhanced the compensation. Since the claimants felt that the enhancement was inadequate and the State as well as the acquiring body felt that the enhancement itself was excessive, both sides have preferred these appeals before this Court.

70. The principal controversy between the parties is regarding determination of the market value of the acquired lands as on the date of publication of notification under Section 4 of the Act. According to the claimants, the Reference Court ought to have followed the market value determined in the earlier judgments

relating to Villages Dabkeghar and Deoghar and thereafter granted annual escalation at the rate of 12%. On the other hand, the State Government and the acquiring body contend that Village Parhar (Khurd) cannot be treated as comparable with those villages because of geographical and other features. According to them, the Reference Court has granted sufficient compensation and no further enhancement is called for.

71. Before examining these rival submissions, it is necessary to keep in mind the settled principles governing a reference under Section 18 of the Land Acquisition Act. A proceeding under Section 18 is an original proceeding before the Court. The Court does not sit in appeal over the award passed by the Land Acquisition Officer. Therefore, the Court is not required to find out whether the award is right or wrong as an appellate Court would do. Its duty is to determine the market value on the basis of the evidence brought before it. The award made by the Land Acquisition Officer is an offer made on behalf of the State to the land owner. Therefore, every finding regarding market value must rest upon evidence produced before the Reference Court and not merely upon the reasons recorded by the Land Acquisition Officer in his award.

72. The initial burden lies upon the claimants to establish that the compensation awarded by the Land Acquisition Officer is inadequate and does not represent the true market value of the acquired lands. Unless such material is brought on record, no enhancement can be granted. However, once sufficient material is produced showing that the award does not reflect the market value, then the evidence led by the State Government and the

acquiring body deserves consideration. The Court cannot examine only one side of the evidence. Therefore, while appreciating the material available on record, it becomes necessary to examine not only the documents and oral evidence relied upon by the claimants but also the documents produced by the respondents during the course of trial.

73. The claimants have relied upon three categories of evidence in support of their claim for enhancement. Firstly, they examined the claimant by filing affidavit in lieu of examination-in-chief at Exhibit 13 and thereafter he was subjected to detailed cross examination. Secondly, they produced certified copies of sale deeds relating to adjoining villages namely Nirgudghar, Nandgaon, Apti and Kari with a view to establish market value. Thirdly, they placed reliance upon earlier judgments delivered in land acquisition references relating to Villages Dabkeghar and Deoghar. Besides these documents, they also produced village records including 7/12 extracts and Talathi certificates to show the nature and location of the acquired lands. According to the claimants, all these documents, when read together, establish that the compensation awarded by the Land Acquisition Officer was inadequate.

74. The respondents examined Mr. Pandurang Ramakant Kanjalkar on behalf of the acquiring body. They also produced a map along with correspondence and certificates relating to the location, topography and distance between the villages. The principal challenge raised by the claimants is that Mr. Kanjalkar had no personal knowledge about the acquisition proceedings

which took place in the year 1997 and therefore his evidence should not receive much weight. The respondents, however, contend that though he was not personally connected with the acquisition proceedings, his evidence regarding geographical features, location of villages and surrounding topography is based upon official records as well as his experience while serving in the Neera Deoghar Project. Therefore, according to them, his testimony cannot be ignored merely because he was not serving in the project at the relevant point of time.

75. While appreciating the oral evidence, it is necessary to distinguish between facts which are within the personal knowledge of a witness and facts spoken on the basis of official records. So far as the acquisition proceedings of the year 1997 are concerned, Mr. Kanjalkar admitted that he was not serving in the concerned project during that period. He admitted that he had not personally participated in the acquisition proceedings. Such admissions reduce the evidentiary value of his testimony regarding the actual condition and quality of the lands as they existed on the date of acquisition because he had no opportunity to see those facts. At the same time, merely because he was not serving in the project in the year 1997, his evidence cannot be thrown away. If a witness deposes regarding official records, existing maps or geographical features which continue to exist and if such evidence otherwise appears reliable, the Court cannot reject the testimony only because he lacked personal knowledge regarding the acquisition proceedings. Therefore, his evidence deserves proper appreciation instead of complete rejection.

76. Likewise, the evidence of the claimant also cannot be accepted merely because statement made by him could not be shaken in the cross examination. The claimant is an interested witness because he seeks higher compensation for his acquired land. At the same time, he is also a resident of the village and therefore possesses personal knowledge regarding the location of neighbouring villages, the nature and quality of lands, the crops cultivated and the geographical features. Therefore, his evidence cannot be discarded merely on the ground that he is an interested person. Such testimony has to be tested in the light of documentary evidence and probabilities arising from the record. In land acquisition matters the Court must carefully evaluate oral evidence because compensation is paid from public funds. At the same time, genuine land losers also should not be denied just compensation merely because they happen to be interested witnesses. Thus, the evidence of both sides has to be appreciated with equal caution.

77. The affidavit of the claimant shows that he has stated that the lands situated in Village Parhar (Khurd), Nirgudghar, Nandgaon, Apti and Kari are similar in quality. He has also stated that Mahad Pandharpur Road was situated adjacent to the area separated by River Neera and that Village Dabkeghar as well as Village Deoghar are adjoining villages. He has further explained that certified copies of sale deeds and previous judgments were produced because no sale transactions from Village Parhar (Khurd) were available after restrictions came into force under the rehabilitation scheme. These statements receive support from the

award wherein the Land Acquisition Officer has recorded that sale instances from adjoining villages were required to be considered because sale transactions from the acquired village were not available. Thus, the oral testimony of the claimant finds some support from the documentary material on record.

78. The cross examination of the claimant assumes importance because it gives opportunity to test the truthfulness of his assertions. It appears that though suggestions were put to him during cross examination, his evidence regarding the existence of River Neera, the adjoining location of Village Dabkeghar and the similarity in quality of certain neighbouring lands could not be materially shaken. The claimant admitted that there was one stream between Parhar (Khurd) and Parhar (Budruk) and that River Neera was flowing on one side of the village. However, he maintained that the quality of lands in Village Dabkeghar, Hirdoshi and his village was similar and that these villages came under submergence. Therefore, these assertions are required to be appreciated together with the entire evidence available on record.

79. The submission advanced by the respondents that the claimant admitted existence of River Neera and therefore comparability with Village Dabkeghar comes to an end, cannot be accepted. Mere existence of a river by is neither always a positive factor nor always a negative factor affecting market value. The actual effect of such geographical feature depends upon several surrounding circumstances like availability of approach roads, existence of bridge, transportation facilities, distance between villages and usability of the lands. Therefore, existence of River

Neera is one relevant circumstance which deserves consideration, but by itself it cannot become conclusive for deciding whether the lands are comparable or not.

80. The next aspect concerns the evidentiary value of the earlier judgments relating to Villages Dabkeghar and Deoghar. It is true that a previous judgment determining market value does not become conclusive evidence in every subsequent land acquisition reference. Every acquisition has to be decided on its own facts and evidence. However, where the earlier judgment relates to acquisition of neighbouring lands, arising from nearby notifications and concerning comparable circumstances, such judgment possesses persuasive value. If the evidence in the subsequent case establishes similarity in location, quality, potentiality and surrounding circumstances, there is no legal bar in placing reliance upon such earlier determination after making adjustments wherever required by the facts of the case.

81. In the present matter, both sides have relied upon the judgment delivered by the Coordinate Bench relating to Village Dabkeghar. The claimants rely upon the said judgment for determining the market value and also for claiming escalation. The respondents rely upon the same judgment while contending that the deductions and distinguishing features recorded therein should apply to the present acquisition. Therefore, neither side disputes the relevance of the earlier judgment. The dispute between them is regarding the extent to which the conclusions recorded in that judgment can be applied to the acquisition involved in the present appeals.

82. The sale deeds produced by the claimants require careful consideration because they constitute evidence for determining market value. It is not disputed that these sale transactions relate to Villages Nirgudghar, Nandgaon, Apti and Kari. More importantly, it is also an admitted position that even the Land Acquisition Officer relied upon sale transactions from adjoining villages because no sale instances from Village Parhar (Khurd) were available. The respondents have not produced any sale deeds showing a different market value nor have they disputed the genuineness of the sale deeds produced by the claimants. This circumstance gives some weight to the sale instances relied upon by the claimants. Whether sale deed is a comparable instance or whether some of them deserve acceptance is a different question and that issue will require examination while determining the correct market value.

83. Therefore, on overall appreciation of the evidence at this stage, this Court is of the opinion that neither the evidence led by the claimants nor the evidence led by the respondents can be accepted or rejected in its entirety. The claimant's testimony receives support from certain evidence and from some admissions appearing on record. Similarly, the evidence of Mr. Kanjalkar cannot be completely brushed aside, though its evidentiary value regarding the condition of the acquired lands stands weakened because he had no personal knowledge of the acquisition proceedings of the year 1997. Thus, the previous judgments, the comparable sale deeds and the surrounding material assume importance than the oral assertions. It therefore becomes

necessary to examine next whether the geographical situation, connectivity and quality of lands sufficiently establish that Village Parhar (Khurd) is comparable with Village Dabkeghar and other adjoining villages for the purpose of determining the market value of the acquired lands.

84. The controversy between the parties is whether Village Parhar (Khurd) can be treated as comparable with Village Dabkeghar and the neighbouring villages of Deoghar, Nirgudghar, Nandgaon and Apti for the purpose of determining the market value of the acquired lands. The claimants have maintained that all these villages form one belt, are situated close to each other and possess similar quality of agricultural lands. According to them, there is no difference in the physical features or agricultural potential of these villages and, therefore, the market value determined for Village Dabkeghar can be taken as the basis for the present acquisition after making adjustment for time. On the other hand, the State Government and the acquiring body have disputed this position. According to them, Village Parhar (Khurd) has distinguishing geographical features which reduce the market value of the acquired lands. Therefore, before examining the question of compensation, it becomes necessary to examine the evidence relating to location, surrounding circumstances, quality of lands and geographical features because the answer to this issue has bearing on determination of the market value.

85. The claimants have asserted that Village Parhar (Khurd) shares a boundary with Village Dabkeghar. They have further stated that Village Deoghar lies across River Neera and that

Villages Nirgudghar, Nandgaon and Apti are situated within a short distance. According to them, all these villages are so situated that they form one agricultural region and are separated by River Neera and not because of any geographical disadvantage. The claimants have relied upon the village maps, the earlier judgments delivered in respect of neighbouring villages and even the observations recorded by the Reference Court. The claimant, in his affidavit, has stated that Village Nandgaon is about three kilometres away, Village Nirgudghar is about one kilometre away and Village Apti is about two kilometres away. He has further deposed that the quality of lands in all these villages is similar. According to him, River Neera lies between his village and Mahad Pandharpur Road and there existed a bridge directly connecting the village with the said road. According to the claimants, therefore, the mere existence of the river did not create any disadvantage so far as accessibility of the lands was concerned.

86. The findings recorded by the Reference Court in paragraphs 33, 37, 40 and 43 of the impugned judgment, recorded that Village Parhar (Khurd) and Village Dabkeghar have a common boundary and that there is no difference in the quality of lands situated in these two villages. The Reference Court has further observed that during cross examination, the respondents suggested to the claimant that the quality of lands in both villages was the same and such suggestion was accepted. Though these findings are not binding upon this Court while deciding the present appeals, they cannot be ignored because they are based upon appreciation of oral and documentary evidence which came before the Reference

Court. They indicate that the evidence led before the trial Court pointed towards similarity between the two villages. Unless such findings are shown to be contrary to the evidence or perverse, they carry persuasive value while reappreciating the evidence in appeal.

87. The respondents, however, contend that mere existence of a common boundary is not enough to treat two villages as comparable for determining market value. According to them, Village Parhar (Khurd) is situated at a greater distance from Bhor city. It is also their case that the village lies between two mountains and River Neera separates it from Mahad Pandharpur Road. According to the respondents, these geographical features reduce the market value because accessibility becomes less and the village cannot enjoy the same advantages as the neighbouring villages. In support of these submissions, reliance has been placed upon the evidence of Mr. Kanjalkar and also upon the certificate issued by the Public Works Department showing distances between various villages. According to the respondents, these circumstances distinguish Village Parhar (Khurd) from Village Dabkeghar and therefore the market value determined for Village Dabkeghar cannot be adopted without reduction.

88. After carefully considering the evidence available on record, this Court finds that the respondents have not been able to establish these distinguishing features with the degree of certainty required in law. The distance certificate relied upon by the respondents came to be prepared in the year 2019, almost twenty two years after publication of the notification under Section 4. Naturally, by that time the entire geographical situation had

undergone change because the project had been completed and the original villages had come under submergence. More importantly, the officer who prepared the said certificate has not entered the witness box. Therefore, the claimants were deprived of an opportunity to cross examine him regarding the source of information and the actual basis upon which the distances were calculated. In absence of such examination, the evidentiary value of the certificate becomes weak. Such document may provide some assistance, but it cannot be treated as conclusive proof regarding the geographical situation prevailing on the date of acquisition in the year 1997.

89. Apart from this, the evidence discloses another difficulty in accepting the respondents' case. The witness Mr. Kanjalkar admitted during his cross examination that the map relied upon by him depicts the Ring Road which came into existence after the year 2001 and not the original Mahad Pandharpur Road existing on the date of acquisition. He further admitted that the original Mahad Pandharpur Road had gone under the waters of the Neera Deoghar Project after construction of the dam. These admissions assume importance because the market value has to be determined with reference to the situation existing on the date of publication of the notification under Section 4 and not on the basis of developments which took place years thereafter. If the map reflects a later situation created after completion of the project, it becomes unsafe to determine the market value prevailing in the year 1997 on the basis of such subsequent road. Therefore, much weight cannot be attached to the map for deciding the controversy

regarding comparability.

90. The respondents have also attempted to distinguish the villages by emphasising the distance between Bhor city and Village Parhar (Khurd). In my view, this submission does not carry much substance. Market value of agricultural land cannot be determined only with reference to the distance from the Taluka headquarters. Distance from Bhor may be one relevant circumstance but it is never the sole factor. The Court has to consider the location of the acquired lands in relation to comparable lands, their quality, fertility, accessibility, surrounding features, physical characteristics and other advantages or disadvantages existing on the relevant date. If neighbouring villages possess similar character, geographical situation and cultivation pattern, then mere difference of a few kilometres from the Taluka headquarters may not become decisive. Otherwise, every village situated a little farther away from the town would receive lower compensation even though its lands may be identical in all respects. Such approach would not be consistent with settled principles governing determination of market value.

91. There is another important circumstance which, in my opinion, cannot be overlooked. The Land Acquisition Officer recorded in the award that no sale transactions from Village Parhar (Khurd) were available because restrictions had come into operation after the rehabilitation notifications. Therefore, he collected sale transactions from neighbouring villages like Nirgudghar, Apti, Nandgaon and Kari for determining the market value. This conduct of the acquiring authority assumes

significance. If those villages were different in quality, location or agricultural potential, the Land Acquisition Officer could not have treated them as comparable while passing the award. Though the award is not evidence of market value, the method adopted by the Land Acquisition Officer indicates that even the acquiring authority considered these adjoining villages to be comparable for valuation purposes. The respondents cannot now depart from the basis adopted by their own officer without producing evidence showing distinction.

92. The respondents have further argued that Village Parhar (Khurd) lies between two mountains and therefore its agricultural potential is lower. It is true that Mr. Kanjalkar has made such statement in his evidence. However, beyond this assertion, no detailed map, survey report or technical material has been produced to demonstrate that the acquired lands themselves were hilly, rocky or incapable of cultivation. On the contrary, the claimant has stated that the acquired lands were jirayat and paddy lands yielding crops such as rice, nachani, varai, sawa and grass. He has also deposed that rain water used to be retained by constructing small bunds and cultivation had been carried on for several years before acquisition. These statements were not demolished during cross examination. No evidence has been produced by the respondents to show that these lands were barren or inferior to the lands situated in Village Dabkeghar. Therefore, a mere statement that the village lies between mountains cannot establish that the acquired lands possessed lower market value.

93. Further, the record shows that the acquired lands formed part of the submergence area of the Neera Deoghar Dam. Ordinarily, lands acquired for creation of a reservoir are low lying or comparatively plain lands capable of retaining water after construction of the dam. Though this circumstance cannot determine market value or establish the nature of the lands, it weakens the contention of the respondents that the acquired lands were hilly and incapable of cultivation. Had the lands been steep hill slopes, the question of their forming part of the submergence area would require supporting evidence. No such evidence has been placed on record. Therefore, the respondents have not produced material to establish that the lands acquired from Village Parhar (Khurd) possessed inferior quality when compared with Village Dabkeghar.

94. The argument regarding River Neera requires consideration because emphasis has been laid upon it by both sides. According to the respondents, the river creates a geographical disadvantage and therefore reduces the market value of the acquired lands. The claimants, however, submit that before construction of the dam there was hardly any water in River Neera during major part of the year except in rainy season and a small bridge connected the villages with Mahad Pandharpur Road. This submission of the claimants is not without support. The Coordinate Bench, while deciding the appeals relating to Village Dabkeghar, has noticed that except during rainy months River Neera hardly contained water and that there existed a small bridge connecting the villages situated on both sides of the river. The Coordinate Bench has

further observed that the villages situated on both sides possessed similar terrain, agricultural conditions and quality of lands. These observations assume importance because they relate to neighbouring villages acquired under the same project and after appreciation of similar evidence.

95. The respondents have not produced any material to establish that the situation prevailing in Village Parhar (Khurd) was different from that considered by the Coordinate Bench while deciding the Dabkeghar appeals. On the contrary, the witness examined by the acquiring body admitted that the original Mahad Pandharpur Road had become submerged after completion of the project and that the Ring Road came into existence thereafter. These admissions reduce the force of the respondents' argument that River Neera created barrier affecting the market value of the lands. If there was a bridge connecting the villages and if the river contained little water during most part of the year, then existence of the river cannot become a negative factor. Every geographical feature has to be appreciated in the background prevailing on the date of acquisition.

96. Another submission advanced by the claimants is that no evidence has been produced by the respondents to establish that Villages Nirgudghar, Nandgaon and Apti possessed any non agricultural potential because they were situated nearer to Mahad Pandharpur Road. I find substance in this submission. Except making general assertions, neither the State Government nor the acquiring body has produced any documentary material showing existence of commercial establishments, industries, residential

layouts or any other developmental activity in those villages before publication of the notification under Section 4. Mere existence of a road does not lead to an inference that all lands adjoining such road possess higher market value. Much depends upon actual development, user of the lands and surrounding circumstances. In absence of evidence showing such development, it would not be proper to presume that the neighbouring villages had non agricultural potential.

97. The respondents have relied upon the decision of the Supreme Court in *Kanwar Singh* to contend that lands situated in different villages should not be treated as comparable unless similarity is established. There can be no disagreement with this proposition of law. However, whether such similarity is established or not depends upon the evidence available in each case. In the present matter, there is oral evidence of the claimant, documentary evidence in the form of maps, findings recorded by the Reference Court, admissions elicited during cross examination, reliance placed by the Land Acquisition Officer upon adjoining villages and also the observations made by the Coordinate Bench while deciding the neighbouring acquisitions. Therefore, this is not a case where comparability is sought to be presumed because the villages happen to be situated nearby. On the contrary, the claimants have placed material in support of their contention and such material deserves weight while appreciating the rival submissions.

98. The contention of the respondents that the judgment relating to Village Dabkeghar cannot be relied upon cannot be accepted. At

the same time, the submission of the claimants that the said judgment should be applied without any examination also deserves rejection. The earlier judgment constitutes an important piece of evidence because it concerns adjoining villages acquired for the same project within a proximate period and after considering comparable sale transactions. Still, every acquisition has to be decided on the evidence available in that case. Therefore, before adopting the market value determined in the earlier judgment, this Court must examine whether the sale instances, geographical situation, deductions applied by the Coordinate Bench and the time gap between the two notifications justify adoption of the same basis with modifications.

99. Thus, after considering the entire evidence relating to location, geographical features and surrounding circumstances, I am of the opinion that the claimants have succeeded in establishing that Village Parhar (Khurd) is comparable with Village Dabkeghar in respect of agricultural quality, characteristics and overall situation. The respondents have pointed out certain distinguishing features such as greater distance from Bhor city and existence of River Neera. These circumstances cannot be ignored because every relevant factor deserves due consideration while determining market value. However, the evidence available on record is not sufficient to hold that these factors create such distinction as would render the earlier determination relating to Village Dabkeghar inapplicable. At the highest, these features may justify adjustment while determining the market value. They do not justify discarding the comparable instances altogether or

refusing to consider the earlier determination as a guiding circumstance.

100. The next question which arises for consideration is regarding the evidentiary value of the comparable sale deeds, the earlier judgments relating to Village Dabkeghar and Village Deoghar, the principle governing adoption of the highest bona fide sale instance and the extent of annual escalation to which the claimants may be entitled while determining the market value of the acquired lands as on 9 October 1997. These aspects now require examination because they affect the determination of compensation payable to the claimants.

101. The determination of market value in the present case depends upon the comparable sale instances produced on record and also upon the earlier judgments relied upon by both the sides. The claimants have placed reliance upon several sale deeds of Villages Nandgaon, Nirgudghar and Apti. They have relied upon the judgments delivered in respect of Village Dabkeghar and Village Deoghar, contending that those villages are adjoining villages acquired for the same project and, therefore, the market value determined therein should guide the present determination. The respondents have not disputed that these villages are situated in the surrounding area. However, according to them, neither every sale instance nor every finding recorded in the earlier judgments can be applied to the acquired lands in the present case. They submit that every acquisition has its own facts and every comparable instance must satisfy the legal test before it can be relied upon. Therefore, in my opinion, the evidentiary value of

each category of evidence requires careful examination before arriving at the market value.

102. At the outset, it deserves to be noticed that the Land Acquisition Officer has recorded in the award that no sale transactions were available from Village Parhar (Khurd) because after initiation of rehabilitation proceedings and application of the rehabilitation scheme, sale transactions had stopped in that village. This circumstance is not disputed. The award further records that because of such absence of sale transactions, sale statistics from the adjoining villages of Apti, Nandgaon, Nirgudghar and Kari were collected and examined for determination of market value. The Land Acquisition Officer has further stated that after visiting those villages and comparing the quality of lands, he found that the acquired lands as well as the lands covered by those sale transactions were of similar quality. This part of the award assumes importance. Though it is true that the award is not substantive evidence regarding market value, still it reflects the method adopted by the acquiring authority while fixing compensation. The acquiring authority cannot be permitted to disregard the basis adopted by its own officer unless material is brought on record showing that such basis was erroneous. Therefore, while appreciating the evidence before the Court, this circumstance cannot be ignored.

103. The claimants have produced certified copies of eight sale deeds relating to the adjoining villages. These sale deeds have been duly exhibited before the Reference Court and have formed part of the evidence. Significantly, the respondents have neither

challenged their genuineness nor suggested that they are collusive or brought into existence only for claiming higher compensation. No evidence has been led to show that these transactions did not reflect genuine market dealings. Further, no sale transactions have been produced by the respondents to demonstrate that the prevailing market value was lower than what is reflected in these sale deeds. Even the witness examined on behalf of the acquiring body has not expressed any opinion that these sale instances are fabricated or unreliable. Therefore, once these sale deeds stand proved and their genuineness is not questioned, they cannot be discarded because they relate to neighbouring villages instead of Village Parhar (Khurd). In the peculiar facts of the present case, where no sale transactions from the acquired village were available, the neighbouring sale instances assume significance.

104. However, it is well settled that every sale transaction from a neighbouring village cannot become a proper comparable exemplar. Mere production of a sale deed is not enough. The Court has to carefully examine whether the transaction is comparable with the acquired land. The distance between the lands, the proximity of time between the sale transaction and the notification under Section 4, the area sold, the nature and quality of the land, surrounding development and other attending circumstances are all relevant factors. Unless these factors correspond, the sale transaction may not furnish a safe guide. Therefore, though the sale deeds produced by the claimants are relevant and admissible in evidence, each one of them cannot be given equal evidentiary value. Some may deserve greater weight while others may require

exclusion depending upon their facts.

105. The Coordinate Bench, while deciding the appeals relating to Village Dabkeghar, had undertaken such an exercise. Instead of relying upon every sale transaction produced before it, the Coordinate Bench examined each sale deed independently. After analysing the location, time, extent of land and surrounding circumstances, it came to the conclusion that only Exhibits 13, 17 and 19 constituted the most reliable comparable exemplars. The remaining sale transactions were not accepted as proper exemplars for reasons recorded in the judgment. Thereafter, the Coordinate Bench determined the market value by considering those selected sale deeds together with the advantages and disadvantages of the acquired lands. In my opinion, such approach is in consonance with the settled principles governing determination of compensation. A Court is expected to separate reliable evidence from less reliable material instead of treating every sale transaction alike.

106. The claimants have argued that the highest bona fide sale instance alone ought to have been adopted and that the Coordinate Bench committed an error in not doing so. For this proposition they have relied upon several judgments of the Supreme Court including *Mehrawal Khewaji Trust, Hans Raj, Vijayalakshmamma Rao Bahadur, Anjani Molu Dessai and Manohar*. There cannot be any dispute regarding the legal proposition laid down in these judgments. Ordinarily, where there are several genuine and comparable sale instances, preference should be given to the highest bona fide exemplar because

acquisition under the Land Acquisition Act is compulsory in nature and the land owner has no option to refuse the acquisition. Therefore, if reliable evidence of a higher market value is available, there is no reason why the land loser should receive compensation based upon a lower transaction. This principle is intended to ensure that a person whose property is acquired is not placed at an unfair disadvantage.

107. At the same time, the rule regarding adoption of the highest sale instance is not an inflexible rule. It cannot be applied in every case. Before accepting the highest transaction, the Court must satisfy that the transaction is genuine and comparable . Sometimes a small plot may fetch a high price because of its peculiar location. Sometimes a purchaser may pay high consideration because of some advantage available to that land. Therefore, while applying the principle of the highest exemplar, the Court must carefully examine all surrounding facts and ensure that the highest transaction reflects the market value. Thus, the principle of highest exemplar has to be applied with caution.

108. In the present case, the claimants have attempted to demonstrate that the difference between the highest and the remaining sale instances ranges between thirty and fifty per cent and, therefore, the transactions cannot be said to fall within a narrow bandwidth. According to them, once the sale instances do not fall within a narrow range, the highest sale transaction from Village Nandgaon ought to have been accepted as the basis for determining market value. On the other hand, the respondents have pointed out that certain subsequent sale transactions disclose

lower values than earlier transactions. According to them, the market was not showing any upward trend and therefore the highest transaction cannot be treated as representing the market value prevailing in the locality. Thus, both sides have attempted to draw different inferences from the same sale transactions.

109. This Court finds that neither of the rival submissions can be accepted in absolute terms. The mere existence of variation in sale prices does not establish that the highest sale transaction is unreliable. Similarly, the fact that one transaction reflects the highest price does not make it the safest guide for determining compensation. Agricultural land transactions are influenced by several factors including size of the land, location, fertility, access to roads, urgency of the vendor, bargaining between parties and many other surrounding circumstances. Therefore, the Court has to examine the totality of circumstances before selecting the proper exemplar. The Coordinate Bench had the opportunity of analysing these sale deeds in detail while deciding the Dabkeghar appeals. It selected those exemplars which were most comparable after considering the location, extent, quality and timing of the transactions. No material has been placed before this Court to demonstrate that the said exercise suffered from any factual error. Therefore, there appears no reason to reopen the exercise afresh.

110. The next question concerns the evidentiary value of the judgments relating to Village Dabkeghar and Village Deoghar. The claimants submit that these judgments furnish the safest guide because they concern acquisitions made for the same project involving adjoining villages and notifications issued within a

proximate period. According to them, once similarity of lands has been established, the earlier judicial determination should be followed so that similarly situated land holders receive similar compensation. The respondents, on the other hand, contend that every acquisition must be decided on its own evidence and that earlier judgments cannot conclude the controversy because the acquisitions relate to neighbouring villages.

111. In my opinion, there is considerable force in both the submissions though neither can be accepted in its entirety. A previous judgment determining market value is not a statutory precedent fixing market value for all acquisitions. Every acquisition has to be decided on the evidence available in that case. At the same time, where adjoining lands acquired for the same project have been evaluated after appreciation of comparable evidence, such determination cannot be ignored without sufficient reasons. Uniformity in awarding compensation to similarly situated land holders is a relevant consideration. Persons whose lands possess similar characteristics and are acquired for the same project should not receive different compensation unless distinguishing circumstances are established by evidence. Therefore, earlier judgments possess persuasive value and deserve due weight though they cannot replace evaluation by the court.

112. The evidence available on record shows that Village Dabkeghar and Village Parhar (Khurd) share a common boundary. The quality of lands has been found by the Reference Court to be similar. The Land Acquisition Officer relied upon common sale transactions while determining compensation. The Coordinate

Bench has recorded detailed findings regarding the situation, proximity and characteristics of the neighbouring villages. In such circumstances, the earlier judgments possess persuasive value and provide guidance while determining the compensation. They cannot be treated as conclusive, but they cannot be brushed aside merely because they relate to another village.

113. The claimants have further relied upon the judgment relating to Village Deoghar. The respondents have opposed such reliance by contending that Village Deoghar enjoyed the advantage of Mahad Pandharpur Road and certain other features which were not available to Village Parhar (Khurd). It is important that the Coordinate Bench noticed these features while determining the market value of Dabkeghar lands and accordingly made deductions before fixing compensation. Therefore, in my opinion, the judgment relating to Village Deoghar cannot be applied for determining compensation of Village Parhar (Khurd). At the same time, it cannot be said that the judgment is irrelevant. It furnishes one circumstance while examining the overall valuation and also helps in understanding the relative position of neighbouring villages. Therefore, it deserves consideration.

114. The submission of the respondents that no reliance can be placed upon the earlier judgments also deserves rejection. The purpose of judgment in earlier acquisitions is to provide guidance where lands are similarly situated and the evidence overlaps. If every Court were required to ignore earlier determinations, then inconsistency would arise in awards relating to the same project and similarly situated land holders may receive different

compensation without any valid basis. Such inconsistency should be avoided. Therefore, previous judgments deserve consideration though they cannot substitute appreciation of the evidence available in the case.

115. The respondents have also argued that the sale instances relied upon in the Dabkeghar judgment disclose fluctuating market prices and therefore there was no basis for any further enhancement. This submission cannot be accepted. Agricultural land transactions seldom disclose uniform prices. Variations may occur because of size of the plot, fertility, location, access to roads, individual bargaining or several other circumstances. Therefore, isolated fluctuations in sale prices cannot establish absence of appreciation in market value. At the same time, such fluctuations require the Court to proceed with caution before applying any uniform increase. The Court must balance both these considerations while arriving at a conclusion.

116. The Reference Court has relied upon the rate determined for Village Dabkeghar but granted escalation only at the rate of six per cent. The claimants have challanged this approach by contending that once the Reference Court accepted the Dabkeghar judgment as the basis of valuation, it ought to have adopted the entire method followed including the principle regarding annual escalation. At first sight this submission appears attractive because ordinarily the method adopted for arriving at the comparable value should receive due consideration. However, determination of annual escalation is a issue requiring independent examination. Adoption of a comparable market rate and determination of

annual appreciation depend upon different considerations. Therefore, merely because the Reference Court accepted the basic market value determined for Village Dabkeghar, it does not follow that the same rate of annual escalation must apply. The correctness of the escalation granted by the Reference Court has to be examined on the basis of evidence.

117. Another aspect which deserves consideration is the absence of rebuttal evidence from the respondents regarding the sale deeds relied upon by the claimants. Though the respondents have challenged the comparability of the villages and questioned the claim for higher compensation, they have not produced any sale transactions showing a lower market value. This omission strengthens the evidentiary value of the sale deeds produced by the claimants because there is no contrary documentary evidence available on record. Nevertheless, compensation cannot be determined merely because the respondents failed to produce better evidence. The burden initially lies upon the claimants and they must establish that the sale instances relied upon by them represent the market value on the relevant date. The weakness in the respondents' evidence cannot become the sole foundation for enhancement of compensation.

118. Having considered the oral evidence, documentary evidence, the comparable sale transactions, the earlier judgments and the rival submissions advanced by both the sides, I am of the opinion that the comparable sale deeds produced by the claimants constitute reliable evidence for determination of market value. The earlier judgments relating to Village Dabkeghar and Village

Deoghar provide guidance because of the proximity of time, place and purpose of acquisition. However, neither the highest sale instance nor the average of every sale transaction can be adopted mechanically. The final market value has to emerge after considering the comparable exemplars, the features of the acquired lands, deductions, the findings recorded in the earlier judgments and the question whether annual escalation at the rate claimed by the claimants has been established on the basis of the evidence available on record. That issue now requires detailed consideration.

119. Having considered the entire evidence available on record, now the only issue which survives for consideration is whether the Reference Court was justified in granting escalation at the rate of 6% per annum over the market value of Rs.2,05,000/- per hectare determined by the Coordinate Bench in respect of Village Dabkeghar, or whether the claimants have been able to establish that they are entitled to escalation at the rate of 12% per annum till the notification under Section 4 dated 9 October 1997. In my opinion, this issue goes to the root of the present group of appeals because every other controversy has been answered either by the evidence on record or by the findings recorded by the Reference Court. The Reference Court has accepted that Village Parhar (Khurd) and Village Dabkeghar are comparable villages and has adopted the market value determined for Village Dabkeghar as the base rate. Once such finding is accepted, the basic market value is no longer in dispute. Therefore, the dispute between the parties is confined to the extent of annual appreciation which should be

granted so as to arrive at the correct market value on the date of acquisition. Thus, the answer to this issue will decide whether the compensation awarded by the Reference Court represents market value or whether enhancement is necessary.

120. The impugned judgment records that the respondents had accepted before the Reference Court that the rate determined for Village Dabkeghar could be applied to the acquired lands of Village Parhar (Khurd), though they opposed grant of escalation over the said rate. This circumstance has importance because it shows that according to the respondents, the market value determined for Village Dabkeghar could be taken as the starting point for determining compensation in the present acquisition. Thus, the comparability of the two villages was not under dispute before the Reference Court. In fact, paragraphs 37, 40 and 43 of the impugned judgment record findings that Village Dabkeghar and Village Parhar (Khurd) share a common boundary, that the quality of lands in both villages is similar and that there is no evidence on record to show that the acquired lands of Village Parhar (Khurd) were either superior or inferior to the lands acquired from Village Dabkeghar. These findings are based upon appreciation of the evidence produced before the Reference Court. No material has been pointed out before this Court to show that these findings are contrary to the record. The respondents have not been able to assail these findings by producing any evidence. Therefore, once the base market value of Rs.2,05,000/- per hectare determined for Village Dabkeghar is accepted, the controversy becomes confined only to the question of annual appreciation till the notification

under Section 4 issued.

121. The Reference Court has declined to grant escalation at the rate of 12% per annum on the ground that the claimants failed to establish surrounding circumstances showing increase in market value at such rate and also because the acquired lands were not commercial lands. Proceeding on such reasoning, the Reference Court granted escalation only at the rate of 6% per annum for the period between the notification issued for Village Dabkeghar in the year 1993 and the notification issued in the present case in the year 1997 and determined the market value at Rs.2,54,000/- per hectare. Thus, though the Reference Court accepted that there must be increase in market value because of the time gap of more than four years, it considered that increase at the rate of 6% per annum was sufficient. In other words, the principle regarding increase in value was accepted, but the extent of such increase was reduced.

122. In my considered opinion the reasoning adopted by the Reference Court on this aspect cannot be accepted. The reasons assigned for restricting the annual escalation to only 6% per annum do not appear to be supported by the material available on record. Some circumstances, which have bearing upon the issue of escalation, have either not been considered or have not received adequate weight. Therefore, this finding deserves closer scrutin.

123. Firstly, the question of annual escalation cannot be examined only from the angle whether the acquired lands possess commercial potential. In my opinion, such approach does not

reflect the realities governing increase in land prices. Increase in market value is not confined only to commercial lands. Agricultural lands also appreciate with passage of time depending upon prevailing market conditions, fertility, demand, surrounding circumstances and several other relevant factors. Even purely agricultural lands do not remain at the same price for several years. Therefore, merely because the acquired lands are agricultural lands and not commercial lands, that circumstance cannot become a ground for refusing annual appreciation. If such reasoning is accepted, agricultural lands would remain stagnant in value for yearsr, which does not appear to be supported either by common experience. Therefore, absence of commercial potential by itself cannot justify reduction of annual escalation.

124. Secondly, while deciding First Appeal No.150 of 2009 relating to Village Dabkeghar, the Coordinate Bench has noticed in paragraph 35 that the Reference Court had granted escalation at the rate of 12% per annum and that such escalation had not been challenged. The Coordinate Bench observed that the rate of 12% per annum was borne out from the material available on record. Thus, the Coordinate Bench found that the evidence justified grant of annual escalation at the rate of 12%. This observation assumes importance because it relates to acquisition under the same Neera Deoghar Project and concerns neighbouring lands whose market value has been accepted by the Reference Court as the basis for the present acquisition. Therefore, when a Coordinate Bench found support for annual escalation at the rate of 12%, there ought to have been reasons for departing from that

approach. Such reasons are not found in the impugned judgment.

125. Thirdly, the award passed by the Land Acquisition Officer assumes significance though it is well settled that the award is not substantive evidence regarding market value. Even so, the award records the methodology adopted by the acquiring authority while determining compensation. It is seen that the Land Acquisition Officer granted notional annual increase at the rate of 12% while updating the comparable sale transactions up to the material date. Thus, the Land Acquisition Officer accepted that increase in land prices had taken place with passage of time and accordingly adopted annual increase at the rate of 12%. Therefore, both the Land Acquisition Officer as well as the Coordinate Bench proceeded on the basis that annual appreciation at the rate of 12% was appropriate in the facts relating to acquisitions under this project. Though this circumstance may not be conclusive, it lends support to the contention of the claimants that grant of annual escalation at the rate of 12% is not claim made without any material. It is based upon the methodology adopted by the acquiring authority and accepted by the Coordinate Bench.

126. The claimants have also relied upon the Statement of Objects and Reasons accompanying the Land Acquisition (Amendment) Act, 1984 introducing Section 23(1A) of the Act. It is true that the additional amount payable under Section 23(1A) operates in a different field and cannot be treated as annual escalation while determining market value on the basis of earlier sale transactions. Both the concepts are different. However, the legislative object behind introducing the said provision cannot be ignored. The

Statement of Objects and Reasons recognises that acquisition proceedings often remain pending for considerable period and that such delay causes hardship to land owners because land prices continue to increase with passage of time. Thus, the Legislature recognised the tendency of increase in land values. Therefore, though Section 23(1A) cannot by itself determine appreciation while comparing sale transactions, the legislative recognition of rising land prices supports the principle that escalation may be granted wherever such escalation is supported by the evidence available on record. Hence, this circumstance provides some support to the claimants' contention.

127. The learned Additional Government Pleader has relied upon the decision of the Supreme Court in *P. Ram Reddy* and submitted that the Court should not accept oral assertions regarding increase in market value. There cannot be any dispute with this proposition. In land acquisition matters the Court has to act cautiously because compensation is paid from public funds. Therefore, compensation must be determined on the basis of reliable evidence, surrounding circumstances and legal principles. However, in the present case the claimants do not rest their claim merely upon oral statements. They have relied upon comparable sale transactions, the methodology adopted by the Land Acquisition Officer, the earlier judgment of the Coordinate Bench and the admitted time gap of four years between the two notifications. Thus, there is documentary material supporting their claim. Therefore, in my opinion, the present case stands on different footing and the decision in *P. Ram Reddy* does not

advance the respondents' case.

128. The respondents have also relied upon the judgment in *Land Acquisition Officer Vs. B. Vijender Reddy* to contend that escalation cannot be granted in absence of evidence. The principle laid down therein is also well settled and cannot be disputed. However, every land acquisition case depends upon its own evidence and surrounding circumstances. In the present matter there exists material in the form of sale deeds, the methodology adopted by the Land Acquisition Officer, the earlier judgment of the Coordinate Bench and the gap of more than four years between the two notifications. Therefore, it cannot be said that the claim for escalation rests merely upon assumptions. The present claim is supported by surrounding material and hence the ratio of the said judgment does not assist the respondents.

129. The respondents have next argued that sale transactions relied upon in the Dabkeghar case disclose descending market prices and, therefore, there was no increase in market value. This submission does not persuade this Court. Individual sale transactions may vary because of many reasons. The size of the land sold, urgency of the vendor, financial condition of the parties, fertility of the plot, location, access to road or several other surrounding circumstances may influence the sale price. Therefore, it would not be safe to infer absence of appreciation in market value merely because one or two subsequent transactions disclose lower rates. More importantly, the Coordinate Bench had examined those sale instances in detail before fixing the market value of Village Dabkeghar at Rs.2,05,000/- per hectare.

Therefore, isolated fluctuations appearing in some sale transactions cannot outweigh the overall conclusion reached after examination of the evidence.

130. The contention of the respondents regarding River Neera, greater distance from Bhor city and the alleged location of the acquired lands between two mountains has also been considered. These circumstances were relied upon to contend that Village Parhar (Khurd) could not receive the same treatment as Village Dabkeghar. However, as already discussed while considering the issue of comparability, the evidence does not establish that these features reduced the market value of the acquired lands. On the contrary, the respondents' witness admitted that the map relied upon by him depicts the Ring Road constructed after the acquisition and not the Mahad Pandharpur Road existing on the date of notification. The certificate regarding distances was also prepared much later and its author was not examined before the Court. Thus, the foundation of the respondents' argument regarding distance becomes weak. Therefore, these circumstances do not furnish basis for reducing the annual appreciation which appears supported by the material available on record.

131. The rejoinder submissions advanced on behalf of the claimants deserve acceptance to a limited extent. The submission that the distance certificate cannot be treated as conclusive evidence in absence of examination of its author appears to be justified. Unless the author enters the witness box, the basis upon which the measurements were made cannot be properly tested. More importantly, the Land Acquisition Officer relied upon sale

instances from Nandgaon, Nirgudghar and Apti while determining compensation for Village Parhar (Khurd). This conduct of the acquiring authority supports the comparability of these villages and weakens the contention advanced by the respondents that those villages are different for the purpose of valuation.

132. At the same time, I am unable to accept the submission of the claimants that this Court should determine compensation on the basis of the highest sale transaction showing market value of more than Rs.5,33,000/- per hectare. Such submission overlooks the fact that the Coordinate Bench has undertaken scrutiny of all the comparable sale deeds and determined the market value for Village Dabkeghar after making deductions having regard to the advantages and disadvantages of the lands. In the present appeals, both the claimants as well as the respondents have proceeded on the footing that the market value determined for Village Dabkeghar forms the base for further determination. Therefore, once that basic value of Rs.2,05,000/- per hectare is accepted, the proper course would be to determine annual appreciation over that amount instead of reopening the entire exercise relating to selection of sale exemplars and fixation of basic market value.

133. The notification under Section 4 relating to Village Dabkeghar was issued on 6 May 1993 whereas the notification involved in the present acquisition was published on 9 October 1997. Thus, there is a time gap of about four years and five months. During such period, the market value of agricultural lands cannot be expected to remain static. In fact, the Reference Court has accepted that there would be increase in market value during

the intervening period. Having accepted this principle, there appears to be no convincing reason for restricting the annual appreciation only to 6% per annum when the material available on record, including the judgment of the Coordinate Bench, the methodology adopted by the Land Acquisition Officer and the surrounding evidence, indicates annual appreciation at the rate of 12% per annum. In my opinion, the finding limiting escalation to only 6% per annum does not appear to have support.

134. In these circumstances, I am of the considered opinion that the Reference Court was not justified in reducing the annual escalation to only 6% per annum. The claimants have been able to establish on the basis of the evidence available on record that the market value determined for Village Dabkeghar requires to be updated by granting annual escalation at the rate of 12% per annum till the date of publication of the notification under Section 4 in the present acquisition. Consequently, the compensation of Rs.2,54,000/- per hectare awarded by the Reference Court does not represent the fair market value of the acquired lands as on the relevant date.

135. Applying annual escalation at the rate of 12% per annum to the market value of Rs.2,05,000/- per hectare determined for Village Dabkeghar for the period between the two notifications, the market value of the acquired lands in Village Parhar (Khurd), as on 9 October 1997, works out approximately to Rs.3,13,981/- per hectare. Having regard to the evidence discussed, the sale transactions, the findings recorded by the Coordinate Bench, the methodology adopted by the Land Acquisition Officer and the

surrounding circumstances brought on record, this amount appears to represent just compensation. It is supported by the evidence available in the present case and maintains consistency with the earlier judgment relating to the same project. Consequently, the claimants become entitled to enhancement of compensation from Rs.2,54,000/- per hectare to Rs.3,13,981/- per hectare, together with all statutory benefits admissible under the Land Acquisition Act, 1894. The appeals preferred by the claimants, therefore, deserve to be partly allowed to the aforesaid extent, whereas the appeals preferred by the State Government and the acquiring body challenging such enhancement are liable to stand dismissed.

136. In view of the foregoing discussion, and upon overall assessment of the material record, the following order is passed:

(i) The First Appeals preferred by the claimants are partly allowed;

(ii) The First Appeals preferred by the Maharashtra Krishna Valley Development Corporation (MKVDC) are dismissed;

(iii) The common judgment and award passed by the Reference Court are modified only to the extent indicated herein below:

(iv) It is held that the claimants are entitled to compensation for the acquired jirayat lands at the rate of Rs.3,13,981/- (Rupees Three Lakhs Thirteen Thousand Nine Hundred Eighty One only) per hectare, instead of

Rs.2,54,000/- per hectare awarded by the Reference Court;

(v) The claimants shall be entitled to the enhanced compensation together with all statutory benefits available under the Land Acquisition Act, 1894, including additional amount under Section 23(1A), solatium under Section 23(2), and interest under Section 28 of the Act, as admissible in accordance with law. The compensation already paid, if any, shall be given credit while calculating the amount payable;

(vi) The directions contained in the impugned judgment regarding apportionment, withdrawal, adjustment of the amount already received, and all other directions not inconsistent with the present judgment shall remain unaltered and shall continue to operate;

(vii) The acquiring body and the State Government shall deposit the balance amount of compensation together with all statutory benefits before the Reference Court, after giving due credit to the amount already paid, within a period of twelve weeks from the date of this judgment;

(viii) On such deposit being made, the Reference Court shall permit the claimants to withdraw the amount in accordance with law and in terms of the apportionment already determined, after due verification of their entitlement;

(ix) In the facts and circumstances of the case, there shall be no order as to costs.

(x) Pending interlocutory application(s), if any, stand disposed of.

(xi) Drawn up decree accordingly.

(AMIT BORKAR, J.)