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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1983 OF 2025
WITH
CROSS OBJECTION (ST.) NO.19862 OF 2026

The State of Maharashtra, through Deputy Collector (Land Acquisition), Metro Center No.1, Uran, Taluka Uran, District Raigad ... **Appellant**

Vs.

Narayan Gosavi Patil
(since deceased through legal heirs)

1. **Chandrabhaga Narayan Patil**,
2. **Bharat Narayan Patil**,
3. **Mahesh Narayan Patil**,
4. **Mandakini Haribhau Mhatre**,
5. **Kunda Bhagwan Patil**,
6. **Nanda Damodar Mhatre**,
7. **Asha Dnyaneshwar Thakur**,
8. **Sampada Nitin Naik**,
9. **Sanni Rajendra Thakur**, ... **Respondents**

WITH
FIRST APPEAL NO.1987 OF 2025
WITH
CROSS OBJECTION (ST.) NO.19666 OF 2026

The State of Maharashtra, through Deputy Collector (Land Acquisition), Metro Center No.1, Uran, Taluka Uran, District Raigad ... **Appellant**

Vs.

1. **Jayprakash Janardan Patil**,
2. **Dinanath Pandurang Patil**, … **Respondents**

FIRST APPEAL NO.706 OF 2017
WITH
CROSS OBJECTION (ST.) NO. 21660 OF 2017
WITH
INTERIM APPLICATION (ST.) NO.22253 OF 2026

The State of Maharashtra, through Deputy Collector (Land Acquisition), Metro Center No.1, Uran, Taluka Uran, District Raigad … **Appellant**

Vs.

1. **Namdev Gangaram Patil**, deceased through his legal heirs

1/1. **Aruna Namdev Patil**

1/2. **Aditya Namdev Patil**

1/3. **Saurabh Namdev Patil**

1/4. **Vedangi Namdev Patil**

2. **Yashwant Gangaram Patil**, since deceased through his legal heirs.

2/1. **Milind Yashwant Patil**, since deceased through his legal heirs

2/1/a. **Nirzara Milind Patil**

2/1/b. **Hemant Yashwant Patil**

2/1/c. **Vaishali Yashwant Patil**

3. **Late Anant Gangaram Patil**, deceased through his legal heirs

3/1. **Shantabai Anant Patil**

3/2. **Manoj Anant Patil**

3/3. **Rajesh Shantabai Anant Patil**

3/4. **Dharati Anant Patil**

3/5. **Bharati Kamalakar Patil**

4. **Late Madhukar Gangaram Patil**, deceased through his legal heirs

4/1. **Manisha Madhukar Patil**

4/2. **Pranay Madhukar Patil**

4/3. **Priya Madhukar Patil**

5. **Laxman Gangaram Patil**

6. **Late Vishnu Gangaram Patil**, deceased through his legal heirs

6/1. **Lalita Vishnu Patil**

6/2. **Ritesh Vishnu Patil**

6/3. **Kalpesh Vishnu Patil**

6/4. **Akash Vishnu Patil**

7. ~~**Somu Gangaram Patil**~~, deleted

8. ~~**Hansa Gangaram Patil**~~, deleted

9. **Arun Gangaram Patil** … **Respondents**

WITH
FIRST APPEAL NO.1324 OF 2017
WITH
CROSS OBJECTION (ST.) NO.15941 OF 2026

The State of Maharashtra, through Deputy Collector (Land Acquisition), Metro Center No.1, Uran, Taluka Uran, District Raigad … **Appellant**

Vs.

1. **Gajanan Shankar Patil**
2. **Vasant Shankar Patil**
3. **Rajaram Shankar Patil**, Nos.1 to 3 are legal heirs of deceased Shankar Govind Patil
4. **The Managing Director**, CIDCO … **Respondents**

WITH
FIRST APPEAL NO.207 OF 2022
WITH
CROSS OBJECTION (ST.) NO.17219 OF 2026
WITH
INTERIM APPLICATION (ST.) NO.22388 OF 2026

The State of Maharashtra, through Deputy Collector (Land Acquisition), Metro Center No.1, Uran, Taluka Uran, District Raigad ... **Appellant**

Vs.

1. **Mahesh Kamalakar Patil**
2. **Ritesh Kamalakar Patil**
3. **Smita Kamalakar Patil**
4. **Anita Kamalakar Patil**
5. **Bhagyalata Kamalakar Patil**
6. **Digambar Gangaji Kadu**
7. ~~**Suman Gangaji Kadu**~~ (deleted)
8. **Dinkar Purushottam Gharat**
9. **The Managing Director**, CIDCO ... **Respondents**

WITH
FIRST APPEAL NO.798 OF 2018
WITH
CROSS OBJECTION (ST.) NO.17510 OF 2026
WITH
CIVIL APPLICATION NO.2398 OF 2018

The State of Maharashtra, through Deputy Collector (Land Acquisition), Metro Center No.1, Uran, Taluka Uran, District Raigad ... **Appellant**

Vs.

1. **Dharmaraj Janardan Tandel**
2. **Prabhakar Janardan Tandel,** deceased through legal heirs

1. **Nirmala Prabhakar Tandel**
2. **Vishakha Vishal Thakur**
3. **Harshada Prabhakar Tandel**

3. **Tara Janarden Tandel**
4. **Rohini Prasad Patil**
5. **The Managing Director**, CIDCO **... Respondents**

Mr. A.R. Patil, Additional G.P. for the appellant-State.

Mr. Shriram S. Kulkarni with Mr. Gaurav Ugale and Mr. Aryavrat Dubey for the respondents/claimants in FA/1983 & 1987 of 2024.

Mr. Sachin S. Punde with Mr. Kaustubh Patil and Mrs. Deepa S. Punde for the respondents in FA/706 of 2017.

Mr. Saurabh Butala with Ms. Harshada Shrikhande for the respondents in FA/1324/2017, 207/2022, FA798/2018, & FA/758/2018.

Mr. G.S. Hegde, Senior Advocate with Ms. P.M. Bhansali for CIDCO.

CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 4, 2026.

PRONOUNCED ON : AUGUST 11, 2026

JUDGMENT:

1. First Appeal No. 1983 of 2025 is filed by the State challenging the award passed under Section 28A(3) of the Land Acquisition Act, 1894. The dispute relates to the land situated at village Bokadvira, Taluka Uran, District Raigad, bearing new Survey No.55, admeasuring 3,690 square metres. The notification under Section 4(1)(b) of the Act was published on 24 September

1986. Thereafter, the Special Land Acquisition Officer passed an award under Section 11 of the Act on 1 June 1989 and awarded compensation of Rs.25,903/-. The claimant was not satisfied with the compensation and, therefore, sought a reference under Section 28A(3) of the Act. By judgment and award dated 24 March 2021, the Reference Court fixed the market value of the acquired land at Rs.1,124/- per square metre and also granted the benefits. Being dissatisfied with the said judgment and award, the State has filed the present First Appeal.

2. The First Appeal No. 1987 of 2025 is also filed by the State challenging the award passed under Section 28A(3) of the Land Acquisition Act. This appeal relates to the land situated at village Bokadvira, Taluka Uran, District Raigad, admeasuring 5,110 square metres. The notification under Section 4(1)(b) of the Act was published on 24 September 1986. The Special Land Acquisition Officer passed an award under Section 11 of the Act on 11 September 1989 and awarded compensation of Rs.35,679.13/-. The claimant, being dissatisfied with the amount awarded, sought a reference under Section 28A(3) of the Act. By judgment and award dated 24 March 2021, the Reference Court determined the market value at Rs.1,124/- per square metre and granted the benefits. Aggrieved by the said judgment and award, the State has preferred the present First Appeal.

3. The facts which are necessary for deciding all these appeals are stated below. In the year 1958, the Government appointed a Committee under the Chairmanship of Shri S.G. Barve to study different social and economic issues and to submit its recommendations. In the year 1966, another Committee headed by Dr. Gadgil was constituted. The Committee recommended that industries and urban growth should gradually move away from Mumbai towards the mainland so that development could be spread to nearby areas. In January 1970, while the Mankhurd. Vashi Bridge was under construction, a draft Development Plan was prepared proposing the establishment of a new township. On 3 February 1970, around 96 villages were notified under Section 113 of the Maharashtra Regional and Town Planning Act for establishing a new township, which later came to be known as New Bombay. Separate notifications were issued by the State Government for different villages for this purpose.

4. In the year 1971, Section 113(3A) was inserted in the MRTP Act by Maharashtra Act No.21 of 1971. At the same time, several other provisions were also added, including Section 113A. These amendments empowered the State Government to acquire land required for the development of a new town through the New Town Development Authority. Since a large area was proposed to be developed, the State Government was given authority to establish a New Town Development Authority for planning, development and disposal of the land. Once land was notified for the new town, development, and transactions in that area were no longer permitted, and only the New Town Development Authority was authorised to develop and deal with such land. In the year 1973, CIDCO was constituted as the New Town Development Authority under Section 113(3A) of the MRTP Act. In the year 1975, the Development Plan covering all the 96 villages included in New Bombay was published. In the year 1984, the Land Acquisition Act, 1894 was amended by introducing Section 11A, which prescribed a time limit for passing an award. It was provided that if the award was not made within the prescribed period, the acquisition would lapse. As a result, acquisition proceedings in several villages came to an end because awards were not passed within the required time. During September and December 1986, the State Government issued fresh village wise notifications for lands where the earlier acquisition had lapsed.

5. On 24 December 1986, a notification under Section 4 was issued for acquisition of lands situated at village Bokadvira, including the lands involved in the present appeals.

6. On 2 June 1989, possession of the acquired land was taken and handed over to CIDCO. On 30 October 2010, the Reference Court decided LAR No.695 of 2000 and fixed the market value at Rs.600/- per square metre. On 11 January 2011, the claimants applied under Section 28A on the basis of the award passed in LAR No.695 of 2000. The Special Land Acquisition Officer thereafter passed an award under Section 28A and granted compensation at the rate of about Rs.4.55 to Rs.4.63 per square metre by treating the acquired land as agricultural land used for cultivation of paddy. On 17 April 2015, the matter was referred to the District Court, Alibaug under Section 28A(3) of the Act.

7. Before the Reference Court, the claimants entered the witness box in their respective matters. For convenience, the record in First Appeal No.1983 of 2025 has been referred to. Both the claimants also examined Mrs. Manjiri Joshi, who produced her valuation report. The claimants relied upon the allotment letter dated 21 November 1990 and certain lease transactions. The respondents filed a pursis stating that they did not wish to lead any evidence. By judgment dated 24 March 2021, the Reference Court considered the evidence of the claimants and the valuer in paragraphs 14 to 16. In paragraph 17, the Court observed that no comparable sale instances were available. In paragraph 18, it also observed that no mathematical formula could be applied for determining the market value. The Court considered that lease deeds could be relevant for assessing market value, but rejected the lease deeds relied upon by the claimants as they were executed after the Section 4 notification. In paragraph 20, the Court took note of the development that had taken place between 1972 and 1986. It recorded that Bandkhal Industrial Estate and several other industrial estates had come up at Bokadvira. It also noticed that JNPT had been planned, the Dronagiri Node map had been published in 1982, National Highway No.4 had become operational by 1986, and substantial development had taken place around village Bokadvira. After considering the rates fixed for Bokadvira, Roadpali, subsequent judgments and the judgment of the Supreme Court in *Babibai Patil,* the Reference Court determined the market value at Rs.1,124/- per square metre.

8. Aggrieved by the said judgment and award, the State has preferred these appeals, while the claimants have filed cross objections seeking enhancement. In the year 2007, this Court decided First Appeal No.646 of 1995 and connected matters relating to village Roadpali, where the notification under Section 4 had also been issued on 24 September 1986. While determining compensation, this Court considered two lease transactions, namely the Weigh Bridge transaction of 1984 and the Shakti Construction transaction of 1987. After considering all relevant circumstances, taking the average of the two lease transactions and deducting 25 percent towards development, this Court fixed the market value at Rs.1,725/- per square metre. Thereafter, this Court heard First Appeal No.1199 of 1996 and other connected appeals relating to village Padaghe and neighbouring villages. In paragraph 53 of the judgment, it was held that the lands at Padaghe and Roadpali had similar advantages and disadvantages and, therefore, deserved the same market value. However, the Court also held that the reference could not be amended and, therefore, allowed enhancement only to the extent claimed in the original reference while rejecting the amendment application. In paragraph 50 of the same judgment, the Division Bench also observed that the State Government had accepted the judgment relating to village Roadpali.

9. CIDCO thereafter challenged the judgment concerning village Roadpali before the Supreme Court. At the same time, the claimants from village Padaghe also filed Special Leave Petitions challenging the judgment relating to Padaghe. During the pendency of those proceedings, a question arose whether a reference application could be amended. That issue was referred to a Full Bench. The Full Bench held that amendment of the reference was permissible. The Special Leave Petition filed by CIDCO against the judgment relating to village Roadpali was dismissed on the ground of delay. The Special Leave Petitions arising from village Padaghe were thereafter adjourned. A Division Bench of this Court observed that, in respect of the acquisition of the year 1970, the Supreme Court in Ambaji Dharma Pardeshi had treated the lands situated at Roadpali and Wadghar as comparable and had awarded the same rate of compensation. On that basis, the Division Bench expressed the view that, even for the 1986 acquisition, lands situated at village Wadghar should receive the same market value.

10. On 27 August 2015, another Division Bench considered the market value of lands situated at village Kolikopar. While relying upon the judgments relating to Roadpali and Wadghar, the Court found that no industrial units had commenced in Kolikopar by 1986, that development beyond the gaothan area had not taken place, and that a creek on the western side restricted future development. Considering these disadvantages, the Court deducted 20 percent from the rate of Rs.1,725/- per square metre and fixed the market value for Kolikopar at Rs.1,380/- per square metre. On 23 October 2015, the Division Bench determined the market value of lands situated at village Bambavi at Rs.828/- per square metre. Since the lands involved in those appeals were landlocked, the Court granted a deduction of 25 percent and fixed the market value at Rs.620/- per square metre.

11. On 26 October 2016, a learned Single Judge of this Court, after considering the earlier judgments relating to comparable villages, determined the market value for village Bokadvira at Rs.1,725/- per square metre. On 31 October 2017, the Supreme

Court decided the Special Leave Petitions filed by claimants from village Padaghe in the case of Babibai Babu Patil and others. In that case, the State questioned the correctness of the judgment relating to village Roadpali. The Supreme Court remanded the Padaghe matters to this Court and directed that the appeals, including the amendment applications, should be decided afresh.

12. On 9 March 2018, a Division Bench of this Court decided the appeals relating to village Dongari. After considering the judgment of the Supreme Court in Babibai, the Court reduced the market value determined by the Reference Court from Rs.500/- to Rs.200/- per square metre by applying a deduction of 60 percent. Thereafter, the State Government filed several Special Leave Petitions challenging different judgments of this Court. Those matters were remanded to this Court without issuing notice to the parties concerned. On 22 November 2019, the Supreme Court set aside the judgment dated 9 March 2018 in First Appeal No.1360 of 2013 relating to village Dongari and remanded the matter to this Court for fresh consideration.

13. On 12 November 2024, the Supreme Court considered the review petition filed by a claimant from village Bokadvira who had been awarded compensation at the rate of Rs.1,725/- per square metre by the learned Single Judge. The review petition was allowed. The earlier order setting aside that judgment was recalled, the Special Leave Petition was restored to file, and the Supreme Court also clarified that the High Court was free to proceed with the hearing of other pending matters. According to the claimants, because of the above development, the judgment of the learned Single Judge determining the market value of village Bokadvira at Rs.1,725/- per square metre continues to operate. It is their case that the said judgment has considered all the relevant facts and circumstances which are also present in the current matters and, therefore, it can be relied upon while deciding these appeals.

14. On 17 April 2026, a learned Single Judge of this Court, while deciding First Appeal No.714 of 2018 relating to village Padaghe, considered the decision in Babibai and the other relevant judgments and determined the market value of the acquired land at Rs.1,725/- per square metre. On 25 May 2026, CIDCO challenged the said judgment before the Supreme Court by filing a Special Leave Petition. The Supreme Court dismissed the Special Leave Petition.

15. Learned Additional Government Pleader Mr. A.R. Patil appearing for the appellant, State of Maharashtra, submitted that First Appeal No.1983 of 2025 arises from Land Acquisition Reference No.48 of 2015 concerning Village Bokadvira, Taluka Uran, District Raigad. The acquired land measures 3,690 square metres. The notification under Section 4 of the Land Acquisition Act, 1894 was published on 24 September 1986. The Special Land Acquisition Officer had granted compensation at the rate of Rs.4.76 to Rs.5.23 per square metre. However, the Reference Court, by the impugned judgment and award, enhanced the compensation and fixed the market value at Rs.1,124/- per square metre. He further submitted that First Appeal No.1987 of 2025 arises from Land Acquisition Reference No.33 of 2015 relating to lands situated at Village Bokadvira, Taluka Uran, District Raigad. The acquired land in that reference measures 5,110 square metres and the Section 4 notification was also published on 24 September 1986. The Special Land Acquisition Officer had awarded compensation at the rate of Rs.4.83 to Rs.5.08 per square metre. The Reference Court thereafter enhanced the compensation and determined the market value at Rs.1,124/- per square metre. According to the learned Additional Government Pleader, the rate granted by the Reference Court was on the higher side.

16. Learned Additional Government Pleader submitted that, while fixing the market value at Rs.1,124/- per square metre in the present references, the Reference Court had relied upon its earlier awards and also upon several judgments of this Court concerning Village Bokadvira, Wadghar, Roadpali, Kopar, Dongri and other nearby villages. According to him, in those matters this Court had mainly relied upon the judgment dated 21 June 2007 in *State of Maharashtra v. Trimbak Joma Thakur,* reported in 2007(5) Mh.L.J. 187, concerning Village Roadpali, since the lands had been acquired for the same project and under the same notification. He pointed out that in that judgment the market value was fixed at Rs.1,725/- per square metre. He submitted that the correctness of the said rate in *Trimbak Joma Thakur* was subsequently considered by the Supreme Court in *Babibai Babu Patil v. State of Maharashtra and others*. According to him, the Supreme Court noticed that the State had questioned the correctness of the Roadpali judgment and that the matter required fresh consideration by this Court. The Supreme Court had also required consideration of whether proper deductions had been made towards development, smallness of the plots and other relevant factors, particularly because the valuation in Roadpali was based upon commercial and industrial lease transactions, including a 60 year lease and a lease relating to a weighbridge. On this basis, he submitted that the rate of Rs.1,725/- per square metre could not automatically be used as the market value for the present lands.

17. Learned Additional Government Pleader submitted that the judgment in *Trimbak Joma Thakur* was not based upon the settled principles which are required to be followed while determining compensation under the Land Acquisition Act. According to him, the rate of Rs.1,725/- per square metre fixed in that case could not be treated as the true market value of the acquired lands as on the date of the Section 4 notification. He submitted that the Supreme Court has consistently held that a reference under Section 18 or Section 28A(3) is in the nature of an original proceeding and that the claimant stands in the position of a plaintiff. Therefore, the claimant has to prove by reliable evidence that the compensation awarded by the Land Acquisition Officer on the date of the Section 4 notification was inadequate. He submitted that though the Court can in a proper case make a reasonable guess, such exercise has to be done carefully and on the basis of the evidence available on record. Lands situated in different villages cannot be treated as comparable merely because they were acquired for the same project. According to him, each village may have different location, different advantages, different potential and different prospects of development. He submitted that the real question is the price which the acquired land would have fetched if it had been sold in the open market on the date of the Section 4 notification. The compensation must be fair and reasonable to the landowner, but the Court must also ensure that public money is not paid in an amount which is not supported by evidence. In support of these submissions, learned Additional Government Pleader relied upon the decisions of the Supreme Court in *Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona,* (1988) 3 SCC 751; *Food Corporation of India v. Makhan Singh,* (1992) 3 SCC 67; *P. Ram Reddy v. Land Acquisition Officer, Hyderabad Urban Development Authority,* (1995) 2 SCC 305; *Hookiyar Singh v. Special Land Acquisition Officer, Moradabad,* (1996) 3 SCC 766; *Rajashekar Sankappa Taradandi v. Assistant Commissioner and Land Acquisition Officer,* (1996) 9 SCC 642; *Manipur Tea Co. Pvt. Ltd. v. Collector of Hailakandi,* (1997) 9 SCC 673; *Kanwar Singh v. Union of India,* (1998) 8 SCC 136; *Mohammad Raofuddin v. Land Acquisition Officer,* (2009) 14 SCC 367; *and Bhule Ram v. Union of India,* (2014) 11 SCC 307.

18. Learned Additional Government Pleader further submitted that, on the date of the preliminary notification, the acquired lands were agricultural lands and there was no actual development either on the lands or in their immediate surrounding area. He submitted that the lands may have had some possibility of future non-agricultural use, but such future possibility arising only because of the acquisition could not be considered in view of clause fifthly of Section 24 of the Land Acquisition Act. He further submitted that, while determining market value, the Court has to consider the location of the acquired land, its topography, the nature of the soil, the advantages, and disadvantages attached to the land, availability of civic amenities, frontage to a public road or highway, distance from the main town, district headquarters or taluka headquarters and the proximity of any developed industrial or commercial area. According to him, these circumstances are necessary for arriving at a proper and fair market value. He also submitted that the oral evidence of the claimants has to be tested against the probabilities of the case and the surrounding circumstances. If such evidence is accepted without proper examination, it may result in payment of public money much beyond the amount payable. Section 23 of the Land Acquisition Act requires fair compensation to the landowner, but it does not permit an inflated or imaginary amount which is not supported by evidence.

19. Learned Additional Government Pleader then submitted that the judgment of this Court in *State of Maharashtra v. Trimbak Joma Thakur*, concerning Village Roadpali, contains several errors which resulted in an excessively high rate of Rs.1,725/- per square metre for lands which were admittedly agricultural and undeveloped on the date of acquisition. According to him, the first mistake was that the Division Bench did not properly consider that, on the date of the Section 4 notification, Village Roadpali and the surrounding area were undeveloped, and the lands were being used for paddy cultivation. Secondly, he submitted that the lease transactions relied upon in that case related to Village Kalamboli. According to him, Kalamboli was also an undeveloped village where the lands were mainly under paddy cultivation. Though Kalamboli was about one to one and a half kilometres from Roadpali, the only developed plots there were plots developed by CIDCO for commercial purposes and there was no substantial development in the surrounding area. Thirdly, he submitted that the lease transactions relied upon were in respect of fully developed commercial plots allotted by CIDCO to companies through tender. Such developed commercial plots, according to him, could not be compared with large areas of undeveloped agricultural land acquired under the Land Acquisition Act. Lastly, he submitted that the major error in the Roadpali judgment was in paragraph 12, where the Division Bench relied upon the Development Plan of 1992 and also considered the development of the Kalamboli Node which had taken place after 1992. According to him, such later development could not be used for determining the market value as on the date of the Section 4 notification issued in 1986.

20. Learned Additional Government Pleader Mr. A.R. Patil also submitted that the judgment dated 26 October 2016 passed by the learned Single Judge in First Appeal No.123 of 2014 does not properly consider two important aspects. First, according to him, the evidence regarding development around Village Bokadvira brought on record through the valuer showed the position existing when the valuer gave evidence and not the position existing on the date of the Section 4 notification. Secondly, he submitted that in 1986 Village Bokadvira was an undeveloped village consisting mainly of paddy and warkas lands. The lands depended entirely upon the monsoon because there was no irrigation or regular water supply. He therefore submitted that later development could not be taken into account for deciding the market value on the date of acquisition. Referring to the evidence of the claimant in First Appeal No.1983 of 2025, he submitted that in his cross-examination recorded on 11 January 2019, the claimant admitted that there was no primary or secondary school, no primary health centre and that JNPT Port had not come into existence. The claimant also admitted that Bokadvira was outside the Uran Municipal Council limits and that even in 2019 it continued to be governed by a Gram Panchayat. He further admitted that there was no market in the village and that residents had to go to Vashi, Panvel or Uran for their daily requirements. According to the learned Additional Government Pleader, these admissions show that Bokadvira did not have basic civic facilities and was away from the district and taluka headquarters. He also relied upon the cross examination of the valuer, Ms. Manjiri Joshi, recorded on 11 January 2019. According to him, she admitted that the acquired lands were agricultural and were about 23 to 25 kilometres from the Bombay Pune National Highway. She also admitted that JNPT Port started functioning only in 1990, that the village was about 3 to 4 kilometres from the taluka headquarters, that there was no MIDC in the village in 1986, that the nearest industrial area was at Taloja and that there was no post office in the village in 1987. He further submitted that the valuer admitted that her valuation was based upon sale transactions which took place after the Section 4 notification. According to him, these admissions show that in the relevant year Bokadvira was an undeveloped agricultural village without sufficient civic facilities and was not situated in a developed industrial area.

21. Learned Additional Government Pleader submitted that the main basis of the claimants' case was two lease transactions concerning small commercial plots developed by CIDCO. According to him, these plots were allotted by CIDCO on lease for a limited period after public tenders and through auction. He submitted that fully developed commercial plots could not safely be compared with large areas of undeveloped agricultural land acquired in 1986. Referring to the settled principles laid down by the Supreme Court, he submitted that the proper test is whether the acquired land, if sold in the open market on the date of the Section 4 notification, would have fetched the same price as the relied upon transactions. According to him, the lease transactions relied upon by the claimants therefore do not provide a safe basis for fixing the market value and ought to be discarded. He further submitted that it was difficult to accept that an undeveloped village consisting of paddy and warkas lands, depending entirely upon monsoon and without basic civic amenities, could have a market value of Rs.1,725/- per square metre, which would be approximately Rs.1,74,570/- per guntha, in 1986. According to him, such rate was unrealistic, excessive and not supported by the evidence. In support of these submissions, learned Additional Government Pleader relied upon the decisions in *Lal Chand v. Union of India,* (2009) 15 SCC 769, *State of Maharashtra v. Ishwarsharan Kedarnath Bhargava and others,* 2008 (3) Mh.L.J. 331, and the judgment of this Court in *Dinkar Balu Bhopi v. State of Maharashtra* in First Appeal No.1082 of 2005. He further submitted that where comparable sale transactions are not available, the Court may determine the market value by adopting a reasonable method based on guesswork and suitable annual escalation. According to him, the Supreme Court has held escalation of about 5 to 7.5 percent per annum for rural areas and about 10 to 15 percent per annum for semi-urban or urban areas, depending upon the facts of each case. He therefore submitted that this method should be followed in the present case instead of relying upon the lease transactions and earlier judgments. In support of this submission, he relied upon the decisions in *Om Prakash and others v. Union of India,* (2004) 10 SCC 627, *General Manager, ONGC Ltd. v. Rameshbhai Jivanbhai Patel,* (2008) 14 SCC 745, and the judgment of this Court in *Dinkar Balu Bhopi.*

22. Learned Additional Government Pleader lastly submitted that the earlier judgments concerning the New Bombay Project also support the approach suggested by the State. He relied upon *Sabhia Mohammed Yusuf Abdul Hamid Mulla and others v. Special Land Acquisition Officer,* (2012) 7 SCC 595, where the Supreme Court determined the market value of lands at Village Roadpali acquired under the notification dated 3 February 1970 at Rs.25/- per square metre. He also relied upon *Avinash Dhavaji Naik v. State of Maharashtra,* (2009) 11 SCC 171, concerning Village Wahal acquired under the same 1970 notification, where the Supreme Court awarded compensation at Rs.10/- per square metre. According to him, these judgments show the approach adopted by the Supreme Court for determining market value in acquisitions forming part of the New Bombay Project and the same approach should be considered in the present acquisition of 1986. He submitted that Bokadvira falls within the Dronagiri Node and remained undeveloped in 1986, with the acquired lands being used only for agriculture. He submitted that the Court could take judicial notice that development of Dronagiri commenced only after 1992. CIDCO, acting as the New Town Development Authority under Section 113 of the Maharashtra Regional and Town Planning Act, had prepared a phased development plan for Dronagiri during 1989 and 1990. The first phase was implemented between 1991 and 1996, the second between 1996 and 2001 and the third between 2001 and 2005. He further submitted that CIDCO had to spend a very large amount for converting undeveloped agricultural lands into urban areas. Several portions consisted of low-lying lands, hills, ponds, drains, streams, marshy lands, mangroves, khar lands and creeks. Such lands required substantial reclamation and development before they could be used for urban purposes. Considerable expenditure was also required for roads, parks, playgrounds, and other public infrastructure. In conclusion, he submitted that the acquired lands, being undeveloped paddy and warkas lands without civic amenities and situated away from the then developing nodes, could not be compared with small, fully developed commercial plots situated nearly 27 kilometres away. According to him, the rate of Rs.1,725/- per square metre fixed in the earlier judgments was excessively high, unrealistic and would give an unwarranted benefit to the claimants. He therefore submitted that the Court should follow the method indicated in the decisions relied upon by the State and determine the market value by applying reasonable annual escalation and the other settled principles, so as to arrive at fair and proper compensation.

23. Learned Advocate Mr. Shriram Kulkarni appearing for the claimants submitted that, in the case of Village Bokadvira, there are no sale transactions or lease transactions of the relevant period around the Section 4 notification which can directly help the Court in fixing the market value. According to him, the evidence on record shows that considerable infrastructure and other development had started in and around Bokadvira much before the acquisition in 1986. He pointed out that this part of the evidence was not challenged in cross-examination. He submitted that development of JNPT had started from the year 1970 and by 1986 the project had reached an advanced stage in the area around the acquired lands. Though the project was completed in 1989, the position in 1986 was very different from the position in 1970. Large scale development had taken place by then and, according to him, this clearly showed the non-agricultural potential of the acquired lands. Learned counsel further submitted that though one lease transaction executed by CIDCO is available on record, it is of the year 1990 and is therefore after the Section 4 notification. He submitted that CIDCO had prepared a common Development Plan for New Bombay during the years 1970 to 1975 and Bokadvira was included in that plan. Therefore, according to him, the lands in Bokadvira could also have been developed and disposed of in the same manner as lands in the other villages covered by the same plan. In the absence of direct sale or lease transactions of 1986, he submitted that the Court has to determine the market value by applying the principles laid down by the Supreme Court.

24. In support of this submission, learned counsel first relied upon the principle of "guesstimate" held by the Supreme Court in *Trishala Jain and another v. State of Uttaranchal*, reported in (2011) 6 SCC 47. Referring particularly to paragraphs 54 to 70 of the judgment, he submitted that market value cannot be calculated with exact mathematical accuracy in every case. Depending upon the facts and evidence, the Court may have to make a reasonable estimate while fixing the market value and compensation. According to him, a guesstimate does not mean making a guess without any material. It means arriving at a reasonable estimate by considering the evidence available, the surrounding circumstances and the necessary calculations. Where direct evidence of sale transactions is not available, such method, according to learned counsel, is permissible. Secondly, learned counsel relied upon *Chimanlal Hargovinddas v. Special Land Acquisition Officer*, reported in (1988) 3 SCC 751. He submitted that paragraph 4 of that judgment explains the factors which have to be considered while determining market value. He pointed out that the Supreme Court has held that even a transaction after Section 4 notification can, in a proper case, be considered if it is close in time, genuine, and not influenced by the acquisition or the development expected because of the acquisition. He submitted that the judgment also explains the positive and negative factors which have to be considered and requires the Court to decide the case by placing in the position of a reasonable and prudent purchaser.

25. Thirdly, learned counsel considered the judgment in ONGC relied upon by the State. He submitted that in *Lal Chand v. Union of India*, reported in (2009) 15 SCC 769, the Supreme Court considered the earlier decision in ONGC and observed that where comparable sale transactions or acquisitions of the relevant period are not available, the Court may determine the market value by giving reasonable escalation over the value of comparable lands acquired in earlier years. According to him, the Supreme Court has also made it clear that this method is safe mainly where the time gap between the earlier transaction and the acquisition in question is small. Where the time gap is large, such comparison may not always give a safe result. Learned counsel submitted that the observations in *Lal Chand* were made in the context of deductions from freehold market value and the facts of that case were different from the present case. He further relied upon *Major General Kapil Mehra v. Union of India*, reported in (2015) 2 SCC 262, and submitted that the Supreme Court has considered the method of arriving at freehold market value from lease premium. According to him, therefore, the judgments relied upon by the State do not assist the State in reducing the market value in the present case.

26. Learned counsel also relied upon the principles concerning the use of earlier judgments for determining market value. He submitted that an earlier judgment fixing the market value of lands situated in the same or nearby area, though between different parties, can be considered as relevant evidence in a later acquisition case. He fairly submitted that such earlier judgment is not by conclusive. The party relying upon it must also place before the Court material showing that the surrounding facts and circumstances are comparable. In this regard, he relied upon *Chandrashekhar and others v. Additional Special Land Acquisition Officer*, reported in (2009) 14 SCC 441, where the Supreme Court determined the market value after considering the facts and circumstances of that particular case. He also relied upon *Karan Singh and others v. Union of India*, reported in (1997) 8 SCC 186, and the judgment reported in (1976) 4 SCC 9 in support of the same principle. Learned counsel submitted that in the present case the earlier judgments concerning the neighbouring villages can therefore be looked at as relevant material, provided the Court finds sufficient similarity in location, development, potential and other circumstances.

27. Learned Advocate Mr. Shriram Kulkarni appearing for the claimants further submitted that when lands situated in different villages are similarly placed and are acquired under the same notification for the same public purpose, the landowners should ordinarily receive the same rate of compensation. According to him, different treatment should not be given merely because the lands are situated in different villages, unless there are strong and clear reasons showing that the lands are materially different. In support of this submission, he relied upon *Ali Mohammad Beigh and others v. State of Jammu and Kashmir*, reported in (2017) 4

SCC 717, where the Supreme Court considered its earlier judgment in *Union of India v. Harinder Pal Singh and others*, reported in (2005) 12 SCC 564. He submitted that where the acquired lands have similar location and features and have been acquired for the same purpose, there should not ordinarily be different rates of compensation only because the lands fall in different villages. Unless some substantial distinguishing feature is established, similarly situated landowners should receive similar compensation. He also relied upon *Union of India v. Balaram*, reported in (2010) 5 SCC 747, where the Supreme Court reiterated that if the acquisition is for the same purpose and the lands are similar in nature, the fact that they are situated in different villages cannot by justify paying higher compensation to some owners and lower compensation to others. According to him, the same principle was reiterated in *Harinder Pal Singh (supra)* and was recently followed by the Supreme Court in *Krishnan Kumar v. State of Haryana and others*, (2025) SCC OnLine SC 1043.

28. Learned counsel next submitted that the absence of cross-examination on an important part of the evidence is also relevant. According to him, cross-examination is an important part of the trial. If a party wants to dispute what a witness has stated, that case should normally be put to the witness in cross-examination. In support of this submission, he relied upon *Bhoju Mandal v. Debnath Bhagat*, AIR 1963 SC 1906, *Chuni Lal Dwarka Nath v. Hartford Fire Insurance Company Ltd.,* and the decision reported in (2016) 12 SCC 288. On the basis of these decisions, learned counsel submitted that in the present case the State did not cross-examine the witnesses on the development and infrastructure which had come up in and around Village Bokadvira between 1970 and 1986. According to him, the evidence given by the claimants on this issue has therefore remained unchallenged. He submitted that when there is no effective cross-examination and no contrary evidence, the State cannot now dispute those facts only by making submissions before the Court. Learned counsel submitted that the market value in the present case can therefore be assessed by considering the earlier judgments and awards concerning comparable villages, the evidence of the expert valuer and the lease transactions produced on record. According to him, all these materials, when considered together and with the principle of reasonable guesstimate, provide sufficient basis for fixing the fair market value. He further submitted that the method adopted in the ONGC case need not be followed because the facts of the present case are different. Bokadvira, according to him, had witnessed substantial industrial and infrastructure development before the acquisition. It formed part of the common Development Plan of New Bombay and had developed in a manner comparable with villages such as Roadpali, Wadghar, and Kolikopar. Unlike Kolikopar, it did not suffer from any special adverse feature such as a creek or absence of surrounding development. Merely because Bokadvira is situated at some distance from other villages, that by could not justify a lower rate. There was no sufficient material showing any special disadvantage which required Bokadvira to be treated differently. Learned counsel also submitted that the absence of sale transactions should not prejudice the claimants because CIDCO alone was authorised to develop and dispose of lands in the area. According to him, the lease transactions relied upon by the claimants were fixed by CIDCO under its own policy and were not created for the purpose of the present acquisition. They could therefore be considered after converting the leasehold value into freehold value. He submitted that the expert valuer's evidence regarding such conversion had remained unchallenged. The valuer had standardised the lessor's share by deducting 40 percent and thereafter assessed the market value of the acquired lands at Rs.2,500/- per square metre. Even if the entire expert valuation was not accepted, the Court could, according to learned counsel, apply reasonable guesstimate and the earlier judgments relating to comparable villages and fix the same rate as awarded in those cases. He lastly submitted that the Reference Court had adopted a rate on the lower side and had not given sufficient weight to the important location of Bokadvira and the development existing around it at the relevant time. In reply to the judgments relied upon by the State concerning Village Jui Kamothe, learned counsel submitted that the Roadpali judgment had not been brought to the notice of the Bench when the Jui Kamothe case was decided. The same Bench subsequently considered the Roadpali judgment in later cases. According to him, the decision concerning Jui Kamothe is therefore distinguishable on facts and law. He submitted that a learned Single Judge of this Court, after considering *Babibai* and the judgments relied upon by the State, had determined the market value at Rs.1,725/- per square metre and that decision has now attained finality.

29. Mr. Patil, learned Additional Government Pleader, referring to the documents on record in First Appeal No.706 of 2017 and First Appeal No.1324 of 2017, submitted that the material shows that Village Bokadvira was a completely underdeveloped village. He submitted that, in respect of Village Bhendkal, the rate of Rs.12/- per square metre had been awarded. According to him, although the lands involved in the present appeal are situated at Village Bokadvira, the entire village was outside the municipal limits of Uran Taluka. Referring to the Development Plan relied upon by the claimants, he submitted that the Development Plan only contained proposals for future development. On the date of the Section 4 notification, no actual development had taken place either in Village Bokadvira or in the adjoining villages. He further submitted that the documents produced by the Government as additional evidence show that the entire Navi Mumbai Project was proposed to be developed in 14 nodes and that Village Bokadvira formed part of the Dronagiri Node. According to him, the material on record shows that development of the Dronagiri Node had not commenced in the year 1986. He submitted that the different nodes of Navi Mumbai were developed at different points of time and, therefore, the development which took place later could not be taken into consideration for determining the market value as on the relevant date. He submitted that, in these circumstances, even the rate of Rs.600/- per square metre granted by the Reference Court was on the higher side. He pointed out that the valuer, Mr. Ramalingam, admitted in his cross-examination that he had visited

Village Bokadvira only in February 2003. According to him, a valuation based upon a site visit made in the year 2003 could not properly determine the market value of the lands as it existed in the year 1986. He further submitted that the judgments in which the rate of Rs.1,725/- per square metre was granted were based upon the earlier judgment concerning Village Roadpali. According to him, the Roadpali judgment was based upon lease transactions of years subsequent to the date of acquisition. He therefore relied upon the decision of the Supreme Court in *Babibai Babu Patil vs. State of Maharashtra*, Civil Appeal Nos.12564-12565 of 2016, and submitted that the Supreme Court had held that the judgment concerning Village Roadpali could not be treated as binding upon the Court. On this basis, he submitted that the rate of Rs.600/- awarded by the Reference Court ought to be reduced. Mr. Patil further relied upon the judgment of the Division Bench of this Court in *Dinkar Balu Bhopi vs. State of Maharashtra*, First Appeal No.1082 of 2005, decided on 18 December 2012. He submitted that, in that case, the Division Bench had determined the market value at Rs.348/- per square metre for Village Jui Kamothe, where the Section 4 notification had been issued on 14 March 1994. He pointed out that the Division Bench had considered the evidence of the valuer, Ms. Manjiri Joshi, who had based her valuation upon lease transactions entered into by CIDCO in respect of developed lands. However, according to him, the Division Bench did not accept the valuer's report because she had inspected the site more than five years after the date of the Section 4 notification. He submitted that the same reasoning should apply in the present case because Mr. Ramalingam had visited the site only in the year 2003. He therefore submitted that the appeal should be allowed and the rate of Rs.600/- per square metre should be reduced to Rs.348/- per square metre.

30. Mr. Hegde, learned Senior Advocate appearing for respondent-CIDCO in First Appeal No.1324 of 2017, 207 of 2022, 798 of 2018, & 758 of 2018, submitted that the benefit of 12.5% developed land granted to the claimants under the Government policy must also be taken into consideration while determining just compensation. He submitted that, although such benefit is not mentioned in Section 23 of the Land Acquisition Act, the factors referred to in Section 23 are not exhaustive. He fairly accepted that CIDCO had neither filed a Written Statement nor led evidence before the Reference Court and that the contention regarding the 12.5% benefit had not been raised before that Court. However, according to him, since the issue involves a question of law, CIDCO was entitled to raise it for the first time before this Court. Mr. Hegde further submitted that the judgment of the coordinate Bench concerning Village Padghe, in which the rate of Rs.1,725/- per square metre was granted, did not properly consider all the relevant circumstances. According to him, the coordinate Bench had not given sufficient reasons explaining how the rate of Rs.1,725/- per square metre was arrived at for Village Padghe. He also relied upon the judgment in *Dinkar Balu Bhopi* concerning Village Jui Kamothe. On that basis, he submitted that the rate of Rs.600/- per square metre awarded by the Reference Court for Village Bokadvira should be reduced to Rs.348/- per square metre.

He further submitted that, while considering the market value of Village Padghe in First Appeal No.714 of 2018, the coordinate Bench had relied upon the judgment concerning Village Roadpali. According to him, the judgment concerning Roadpali had subsequently been held by the Supreme Court in *Babibai* not to be binding. He further submitted that the coordinate Bench had also relied upon the judgment concerning Village Wadghar, where the rate of Rs.1,725/- per square metre had been granted, but that judgment had subsequently been set aside, and the matter had been remanded to this Court by the Supreme Court. As regards the judgment concerning Village Kolikopar, where the rate of Rs.1,380/- per square metre had been granted, he submitted that the review petition filed by the claimants was pending before the Supreme Court. Mr. Hegde further submitted that the judgment concerning Village Bokadvira, in which the rate of Rs.1,725/- per square metre was granted, was based only upon the judgment in *Trimbak Joma Thakur* concerning Village Roadpali. According to him, since the Roadpali judgment was held by the Supreme Court not to be binding, the coordinate Bench had no independent and admissible material before it to arrive at the rate of Rs.1,725/- per square metre for Village Bokadvira. He therefore submitted that the said earlier determination could not safely be relied upon for maintaining the rate in the present appeals.

31. Mr. Sachin Punde for the claimants in First Appeal No. 706 of 2017 submitted that the Navi Mumbai Project was planned because Mumbai City was facing increasing pressure of population and traffic and therefore the State Government wanted to develop new cities around Mumbai. For this purpose, a committee under the chairmanship of Shri S. G. Barve was appointed in 1958 and its report in February 1959 suggested development of satellite townships near Thane and Raigad. Thereafter, in 1966, another committee under the chairmanship of Dr. D. R. Gadgil considered shifting industries and urban development towards the mainland. On the basis of these recommendations, the State Government decided to acquire lands, except Gaothan lands, in 95 villages in Thane, Panvel and Uran Talukas. Initially 86 villages were included, and later 9 more villages were added in 1973. Village-wise notifications under Section 4 of the Land Acquisition Act were issued on or about 3 February 1970 and development of the lands was thereby stopped or restricted. By notification dated 20 March 1971 read with notification dated 16 August 1973, these 95 villages were declared as the site for the new town called 'New Bombay'. By another notification dated 16 August 1973, CIDCO was declared as the New Town Development Authority under Section 113(3A) of the MRTP Act, 1966. Therefore, according to the claimants, the development of these lands was to be done by CIDCO and for that reason the lands were acquired. In the case of Bokadvira, Section 4 notification was issued on 5 February 1970 and the declaration under Section 6 was made on 19 December 1972 covering the whole village. Thereafter, by Memorandum dated 15 October 1977, the State Government directed early acquisition of lands required for the Gas Turbine Project by using Section 17 of the Land Acquisition Act, 1894. The project was being implemented by Maharashtra State Electricity Board through

CIDCO and was treated as a project of national importance. Accordingly, notification dated 25 October 1977 under Section 17 was issued for lands in Bokadvira and Bhendkhal. The Special Land Acquisition Officer thereafter prepared the Background Note dated 21 February 1979. It recorded that some lands in Bokadvira had been acquired for the Uran plant of ONGC. The Note also recorded that Uran was hardly 10 kms from Bombay across the sea and that Bokadvira and Bhendkhal were adjoining villages forming a compact and homogenous block. It further recorded that the lands had been notified for planned development for Industrial, Commercial and Residential purpose.

32. Learned counsel submitted that the Background Note showed that Bokadvira had several features of an urban area and had non-agricultural potential. Bokadvira formed a compact area with Kaladhonda, Chanje, Mhatavali and Nagoan. The Uran-Panvel road and railway were passing almost through the village. There was a primary school and electricity and the villagers were receiving water from Ransai Dam constructed by M.I.D.C. There were agricultural lands, salt pan areas and a Gaothan. Bokadvira was only about 1 km from the existing Uran Municipality and Bhendkhal was about 2½ kms away. The villagers were using the facilities of Uran Municipal area for their daily needs. Uran had electricity, pipe-water, telephone lines, railway, roads, regular State Transport buses, banks, schools, Government and private dispensaries and other facilities normally found in urban places. Mora Bunder jetty had regular motor launch services to Bombay and ferry services were available. There were also several factories such as Grindwell Norton Ltd., Industrial Abrasives Co-op Ltd., Skol Breweries, Indian Yeast Company and Standard Abrasive Ltd., where many workers were employed. It was also pointed out that in 1968 the Municipal Council had proposed extension of its limits to include further lands. According to the claimants, this showed that Bokadvira and Bhendkhal had urban and N.A. potential. The Background Note further stated that if there had been no blanket acquisition and no restrictions under the Bombay Tenancy and Agricultural Lands Act, 1948, there would probably have been sufficient sale transactions and urban activities in the area. Thus, the claimants submitted that the material available around 1979 showed considerable development potential in Bokadvira.

33. Learned counsel submitted that the lands in the present appeals were acquired under Section 4 notification dated 24 September 1986, lastly published on 23 July 1987. The award under Section 11, marked Exhibit 1, records that the land formed part of the 'New Bombay Project'. It also records that the land was Kharif/Warkas land and that there were no sale transactions because the lands had been notified for acquisition since 1970. On this basis, the Special Land Acquisition Officer awarded Rs.16,389.73 for 3910 sq. metres by award dated 11 September 1989, which worked out to Rs.4.191/- per sq. metre. The claimants, being dissatisfied, sought a reference for enhancement on 7 December 1989. In that reference they pointed out that the Naval Armament Depot was functioning at Uran from 1962, Ransai Dam and a water pipeline had been constructed, and railway facilities had been provided. They also relied upon existing industries and projects such as ONGC, Gas Turbine, Bharat Petroleum, Mazgaon Docks and Nhava Sheva Port Trust. They submitted that the acquired lands were within the Industrial and Residential Zone under the Development Plan and had substantial non-agricultural potential. They also relied upon CIDCO leases where rates of Rs.2,500/- to Rs.3,000/- per sq. metre had been realised. Initially they claimed Rs.1,500/- per sq. metre and thereafter sought permission to claim Rs.2,000/- per sq. metre in the Cross Objection. The Special Land Acquisition Officer opposed the claim by submitting that substantial earth filling would be required and that CIDCO would have to leave land for roads, drainage, parking and other infrastructure. CIDCO also contended that landowners had received 12.5% developed plots and that this benefit should be considered as part of compensation. The claimants disputed this. According to them, the 12.5% scheme was a separate scheme and was not part of the statutory compensation under the Land Acquisition Act. They referred to the earlier Gaothan Expansion Scheme, the office memorandum dated 06.02.1986 and the Government Resolutions dated 06.02.1990 and 28.10.1994. According to them, compensation under the Land Acquisition Act and the developed plots under the 12.5% scheme were separate, particularly because the developed plots were allotted on payment of lease premium.

34. Learned counsel further relied upon the evidence of Mr. Chokalingan Ramalingam, examined as CW-2 as an expert valuer. He had qualifications in civil engineering, valuation and related fields and had worked in the Indian Defence Services, Military

Engineering Services and thereafter in the Naval Armament Depot, MSEB, JNPT and CIDCO areas in Uran Taluka. He produced his Valuation Report at Exhibit 35 and Map at Exhibit 36. The report considered the distances of important places from Bokadvira and other material documents. After giving allowance for development costs, he assessed the fair market value at Rs.1,200/- per sq. metre. Learned counsel also relied upon the Navi Mumbai Development Plan sanctioned in 1979 and published in 1980. Under that plan, Bokadvira was placed in the Residential and Industrial Zone. The plan showed two proposed roads towards Bombay and the material also referred to the earlier idea of Mumbai Trans Harbour Link and Uran Bridge for connecting Greater Mumbai with the mainland. According to the claimants, these circumstances showed that Bokadvira had potential for development like Roadpali and Kalamboli. Learned counsel then referred to earlier decisions relating to the 1986 acquisition. Roadpali was valued at Rs.1,725/- per sq. metre and the SLP by CIDCO was dismissed. Padaghe had rates of Rs.500/- and Rs.400/- per sq. metre in one proceeding and Rs.1,725/- per sq. metre in another First Appeal. Wadghar was valued at Rs.1,725/- per sq. metre. Kopar was valued at Rs.1,380/- per sq. metre and no SLP was filed either by CIDCO or the State Government. Bambavi was valued at Rs.828/- per sq. metre and no SLP was filed. Bokadvira was earlier valued at Rs.1,725/- per sq. metre, though the matter was subsequently stated to be pending before the Supreme Court. Dongri was valued at Rs.200/- per sq. metre and its matter was directed to be heard afresh.

35. Learned counsel submitted that ordinary private sale transactions were not available because the lands in the 96 villages had been notified for acquisition from 1970 and private development was also restricted. CIDCO alone was permitted to develop and dispose of the lands under Section 113(3A) of the MRTP Act, 1966. Between 1970 and 1986, CIDCO developed different nodes of Navi Mumbai and by 1986 Vashi, Belapur, Kharghar and Kalamboli had seen substantial residential and industrial development. CIDCO had allotted plots to public sector undertakings, banks, Government bodies and other persons through different methods. Therefore, according to the claimants, CIDCO lease transactions were the available material for determining market value. In *Trimbak Joma Thakur*, the Division Bench considered lease transactions of 1984 and 1987, took their average and deducted 25%, and fixed the market value of Roadpali at Rs.1,725/- per sq. metre. The claimants submitted that the State Government had accepted that rate. They further submitted that Bokadvira had several advantages over Roadpali. Bokadvira had a railway line passing through it, whereas Roadpali did not. Bokadvira was about 1 km from the Taluka place whereas Roadpali was about 8 kms away. Bokadvira had several industries and projects. NAD was in existence since 1962. Grindwell Norton Ltd., Industrial Abrasives Co-op Ltd., Skol Breweries, Indian Yeast Company and Standard Abrasive were in existence before 1970. ONGC started around 1972, the MSEB Gas Turbine Project in 1979, JNPT in 1986 and the Bhendkhal Industrial Estate also came up. Residential development was also present through the MSEB colony, JNPT township and ONGC housing colony. The Uran-Panvel State Highway passed through Bokadvira. State Road Transport buses were running through the village from dawn to midnight. Mora Port and Karanja Port were nearby and provided regular water transport. On these facts, the claimants submitted that Bokadvira was in a more advantageous position than Roadpali and the two villages could therefore be compared for determining market value.

36. Learned counsel submitted that the absence of ordinary sale transactions could not be used against the claimants because the acquisition had stopped such transactions. The Division Bench had considered the two lease transactions and treated them as comparable after making a 25% deduction. The claimants also relied upon *Babibai Babu Patil* and submitted that the Supreme Court had required consideration of further deductions for the small size of the plot used as a weighbridge and for its commercial use. They also relied upon the Shakti Construction lease transaction, which was for residential use. According to the claimants, these lease transactions could therefore be considered for Bokadvira also, after making suitable deductions for development costs and other differences. They submitted that although the acquired lands were not developed, they could have been developed in a similar manner to the leasehold plots if they had not been reserved for the New Bombay Project. The sanctioned Development Plan of 1985, according to them, also contemplated such development. Learned counsel further submitted that the Reference Court accepted that the acquired lands had substantial non-agricultural potential, but did not give proper reasons or calculations for fixing the rate at Rs.600/- per sq. metre. According to him, the rate of Rs.1,725/- per sq. metre awarded for Roadpali should also be considered for Bokadvira. He submitted that the location of Bokadvira, its surrounding residential, industrial and commercial development, its proximity to Uran Municipal Council and its closeness to JNPT gave it substantial value. JNPT also provided access to international trade. Therefore, according to the claimants, the market value required substantial enhancement and should be determined by considering the relevant lease transactions and the decision of this Court in *Trimbak Joma Thakur* concerning Roadpali.

37. Mr. Butala, learned Counsel appearing in First Appeal Nos.1324 of 2017, 207 of 2022, 798 of 2018, & 758 of 2018, submitted that the material on record shows that Village Bokadvira had substantial possibility of development even in the year 1986. According to him, the value of the lands cannot be looked at only from the point of view that they were being used for agriculture on the date of the notification. The development around the lands, the approved plans, nearby industries, roads, railway, port activities and the development which was planned with Government support were also important. He submitted that by the year 1986, Nhava Sheva had been declared as a major port. The Major Port Trusts Act, 1963 was made applicable to Nhava Sheva by Gazette notification dated 28 May 1982, as shown at page 472 of the application for additional evidence. Thus, according to him, the port was not merely something expected in future. There was a statutory authority, defined port limits, identified land and an approved public project. He further submitted that in 1984 the World Bank had approved US$250 million for the new container and bulk port, including dredging, railway connection, land development and other infrastructure. For this purpose, he relied upon the Lok Sabha Debate Records at page 101 dated 17 August 1984 and page 330 dated 1 March 1984 in the application for additional evidence. According to him, the work had commenced in 1984. He also relied upon the photograph of the year 1986 at page 477, which, according to him, showed piling work coming above the water level. Therefore, it was submitted that in 1986 Bokadvira was close to JNPT, Uran, ONGC, Bhendkhal Industrial Estate, the Panvel-Uran State Highway, the Uran-Panvel railway line, nearby jetties and existing industrial activities. The approved Development Plan had also kept the area for future urban, commercial and industrial development. The 1980 Development Plan placed on record showed residential and commercial zoning and two proposed trans-harbour bridge connections. Mr. Butala submitted that the State had not produced any independent valuation evidence to disprove these advantages. He also relied upon the judgment of this Court in *Anabai Bhaskar Patil*, where Bokadvira was treated at par with Wadghar and the market value was fixed at Rs.1,725/- per square metre after considering the similarities and advantages. According to him, therefore, the compensation in the present case should not be less than Rs.1,725/- per square metre along with all statutory benefits. He further submitted that a still higher rate could be considered because, according to him, Bokadvira had several advantages which were greater than those available in the villages treated as comparable.

38. Learned Counsel submitted that the subject lands are situated at Village Bokadvira, Taluka Uran, District Raigad. The Section 4 notification was dated 24 September 1986 and was finally published in the year 1987. The claimant had claimed compensation at Rs.2,000/- per square metre. The claimant relied upon his own evidence, the evidence of an expert valuer, the valuation report and other material regarding the location and development around the lands. According to the claimant, the State did not lead any oral evidence. No independent expert valuer was examined on behalf of the State. No comparable sale transaction was produced. There was also no independent evidence showing that the location, development potential or distances relied upon by the claimant were wrong. It was therefore submitted that the evidence produced by the claimant remained unchallenged. The submission was that the Court has to consider the material which is available before it and cannot reduce the value without some proper material showing why the advantages proved by the claimant should be ignored.

39. According to the claimant, market value means the price which a willing purchaser would pay to a willing seller on the date of the notification. Such purchaser is to be treated as a prudent person. He would look at the land and its surrounding circumstances. He would consider the future use permitted under the approved Development Plan, the location of the land, road and railway facilities, closeness to urban and industrial centres, availability of electricity, water and other facilities, public projects sanctioned or being undertaken, possible demand and reasonable future development. The future connectivity with important developed parts of Mumbai would also be relevant where such connectivity was shown or reserved in an approved plan. Learned Counsel submitted that the land need not be fully developed on the date of the notification for its development potential to be considered. Potentiality means the capacity of the land to be developed later for residential, commercial, industrial or similar purposes. Therefore, actual buildings or full commercial operation of the port were not necessary. The important question was whether such development could have been expected on the relevant date. Reliance was placed upon the decision of the Supreme Court in *Avinash Dhavaji Naik*. It was submitted that, in the case of Navi Mumbai acquisition, the Supreme Court held that such a large project would be developed in different phases. Later events could therefore be considered to a limited extent for confirming the development potential which was there on the valuation date. It was also observed that prices could rise because of development and future potentiality. The claimant further submitted that the Supreme Court had noticed that Nhava Sheva Port had come up a few kilometres away, roads were being constructed and the New Bombay Development Plan was relevant for deciding market value. It was also submitted that lands covered by the same acquisition and similarly situated should ordinarily receive similar compensation unless there is some objective reason supported by evidence for treating them differently.

40. The claimant further submitted that the New Bombay Project covered a very large area consisting of 96 villages. Earlier notifications and restrictions arising from the acquisition had stopped normal private transactions in the area. Therefore, according to him, the absence of ordinary sale deeds should not be used against the landowners because the acquisition process had prevented normal sales and affected the ordinary market for the lands. In such a situation, according to the claimant, the Court has to look at the other material available on record. This would include the approved Development Plans, location, earlier comparable judgments, lease transactions, infrastructure, zoning and the reasonable development potential of the lands. It was also submitted that the respondents could not properly value the lands by looking at present-day prices around JNPT or the present Atal Setu area. The later developments were relied upon only for a limited purpose. They were relied upon to show that the advantages which had been planned, sanctioned, confirmed, funded or physically started before the notification were real and could be implemented. The valuation date, however, remained the date of the statutory notification. Later events could not be used for replacing the 1986 value with the present-day value.

41. Learned Counsel submitted that different stages of development of the port have to be kept separate. According to him, there was first the existence of Nhava Sheva Port and port activities, then conception of the project, statutory declaration, approval and availability of finance, commencement of construction, completion and commissioning of the expanded port and thereafter change of name. The fact that the expanded port was formally commissioned in 1989 did not mean that the project, its land, construction work and investment first came into existence in 1989. It was submitted that Nhava Sheva had been declared a major port and the Major Port Trusts Act was made applicable to it by Gazette notification dated 28 May 1982. It was later renamed Jawaharlal Nehru Port by notification dated 26 May 1989, as shown at page 479 of the application for additional evidence. According to the claimant, commissioning of JNPA on 26 May 1989 could not mean that the project and its land, construction, and investment existed only from that date. The 1982 notification was a public act and, according to the claimant, showed Government commitment to the project. It also provided the official framework for the port, including its limits, administration and future works. The claimant further relied upon the Lok Sabha debates to submit that the World Bank had approved US$250 million for the project in 1984. According to him, this showed that the project was not a mere possibility. The finance had been approved. A project of such size, supported by international finance, could not be treated by a prudent purchaser in 1986 as something remote or uncertain. He further submitted that the Lok Sabha debate records showed that work had commenced in 1984 and that the 1986 photograph showed piles above the water level. According to him, this physical material made it difficult to accept that the port project effectively started only in 1989.

42. The claimant submitted that these developments were matters which could have been known to persons dealing with lands in the area. Gazette notifications were public documents. Parliamentary debates were public records. A major port supported by World Bank finance could not be treated as a private or secret proposal. Large-scale acquisition, movement of machinery, marine piling, road and railway planning and port-related activities were matters which could be seen in the surrounding area. According to the claimant, a willing purchaser would take notice of officially sanctioned development which was known and visible. Knowledge could be gathered from the Gazette notifications, Development Plan, acquisition activity, visible construction, parliamentary records, industrial establishments, road, and railway works and expected employment. Therefore, according to him, 1989 could not be treated as the cut-off date for denying the development potential existing in 1986. A major infrastructure project would bring employment, transport, warehousing, logistics, customs-related activity, workshops, hotels, restaurants, retail business, offices, housing, rental demand, ancillary manufacturing and service establishments. These effects, according to the claimant, could have been expected from the size and nature of the Nhava Sheva project. Bokadvira was within the immediate economic influence of that development. He relied upon its proximity to Uran, ONGC, Bhendkhal Industrial Estate, MSEB Gas Turbine Project, BPCL activity, Ranwad Industrial Estate, Mora Industrial Estate, JNPT, Panvel-Uran State Highway, National Highway 4B, Uran-Panvel railway line, Mora Jetty and Karanja Jetty. The valuation material also referred to schools, electricity, water, shops, hotels, garages, petrol pump, Gaothan, hard murum soil and non-agricultural potential. The New Bombay Development Plan reserved Bokadvira for residential and industrial purposes and the 1980 plan showed residential and commercial zoning. The proposed bridge connections towards Mumbai were also relied upon as relevant planning material. The claimant submitted that the present Atal Setu could only be used as later confirmation that the earlier proposed Trans-Harbour connection was physically possible. According to him, Bokadvira was therefore not claiming Rs.1,725/- per square metre merely because Roadpali received that rate. It had its own advantages such as JNPT, ONGC, MSEB and BPCL activities, industrial estates, State Highway, railway, Uran City, jetties, residential reservation, utilities and civic amenities. He submitted that Roadpali had the steel market, highway, railway, Taloja industrial influence and bridge connectivity, whereas Bokadvira had a major port, petroleum and energy activities, industrial estates, Uran City, State Highway, railway and jetties. Different types of development, according to him, could produce similar or greater market potential. He further submitted that development of 96 villages could not happen at one time and CIDCO controlled the sequence and timing of development. A public authority could not postpone development of one node and then use that postponement for reducing compensation. He relied upon *Anabai* for this proposition. He also submitted that Roadpali, Wadghar and Padghe had been valued at Rs.1,725/- per square metre and that Bokadvira had similar or greater potential.

According to him, the State had the best records concerning Development Plans, acquisition, port notifications, CIDCO records, infrastructure, zoning, leases and valuation, but had not produced an independent valuer or contrary evidence. He therefore submitted that the evidence of the claimants remained unrebutted. He also opposed any automatic deduction towards development, submitting that the comparable rate had been fixed after appropriate deductions. He relied upon *Anabai* and the material showing development cost of about Rs.300/- per square metre. Finally, he submitted that Rs.1,725/- per square metre was not a speculative figure. It had been used as a benchmark for Roadpali, Wadghar and Bokadvira. According to him, Bokadvira had at least equal and in some respects greater advantages. He, therefore, submitted that compensation below Rs.1,725/- per square metre would result in unequal treatment without any proved reason. He also relied upon the reasoning concerning Roadpali, Wadghar, Koli-Kopar, Bokadvira and Padghe, pointing out their respective positive and negative features, and submitted that the overall material justified at least Rs.1,725/- per square metre and possibly a still higher rate for Bokadvira.

REASONS AND ANALYSIS:

a) Why absence of direct instance is not fatal:

43. There is no sale instance or lease instance of year 1986 from Village Bokadvira. Entire evidence placed before this Court have been looked into. This Court could not see any sale transaction of the acquired village near the date of publication of notification under Section 4. Claimants could not produce such document. Acquiring body also did not point out that any better sale transaction of that time was available. Record shows that such direct evidence is not available. Still, only because the best kind of evidence is not available, it cannot mean that the reference must fail. This Court has to keep in mind the legal position held by the Supreme Court in *Chimanlal Hargovinddas*. In paragraph 4(3), Their Lordships observed that, "The court has to treat the reference as an original proceeding before it and determine the market value afresh on the basis of the material produced before it." Therefore, the Reference Court is not expected only to check whether the Land Acquisition Officer has done right or wrong. Court has to make its own enquiry on the basis of whatever evidence has come before it. Again, paragraph 4(5) says that market value has to be determined "as on the crucial date of publication of the notification under Section 4". Therefore, the whole exercise has to remain fixed to that date. Later happenings cannot become the basis unless law allows such consideration. The Supreme Court observed in paragraph 4(7) that Court has to identify "the most comparable instance" while fixing market value. Then paragraph 4(9) makes one more clarification by saying that "Even post-notification instances can be taken into account" if the conditions mentioned there are satisfied. Every acquisition may not have one sale deed of same village and same date. If a later transaction is near in time, genuine in nature and not affected because of acquisition, Court may still look into it. Therefore, law never said that only one sale deed of same date can be seen. Court has to examine whatever admissible and relevant material is available before it and from that material reach market value. In paragraph 4(17) of *Chimanlal Hargovinddas* where the Supreme Court observed that these are "general guidelines to be applied with understanding informed with common sense". Valuation has not been made a fixed exercise. Every acquisition has different facts. Every village has different surroundings. Evidence differs from case to case. Court has to use understanding, experience and judicial common sense while appreciating the evidence on record.

44. Mr. Patil, learned Additional Government Pleader argued that burden of proving inadequacy of compensation remains upon the claimants. This submission cannot be said to be incorrect because settled law supports it. Paragraph 4(4) of *Chimanlal Hargovinddas* states that, "the claimant is in the position of a plaintiff who has to show that the price offered for his land in the award is inadequate on the basis of the materials produced in the court". Therefore, merely because claimant demands higher amount, enhancement cannot follow. Claimant has to place material before the Court showing that compensation awarded by the Land Acquisition Officer is inadequate.

45. The same principle has again been repeated in *Hookiyar Singh*. Paragraph 6 says that "the burden of proof of market value prevailing as on the date of publication of Section 4(1) notification is on the claimants". But Their Lordships did not stop there. They observed that Court must "scrutinise the evidence and determine just and adequate compensation". It was also observed that Court "must not indulge in feats of imagination" and should "sit in the armchair of a prudent purchaser in open market". Thus, burden remains upon the claimant. Even then, after evidence comes before the Court, Court has to examine that evidence and decide whether a prudent purchaser in open market would pay such price.

46. Again, in *Manipur Tea Co. (P) Ltd*, paragraph 4, the Supreme Court reiterated that "It is settled law that the burden is on the claimants to prove by adducing cogent, reliable and evidence the market value under Section 23(1) of the Act". At the same time, Their Lordships observed that "it is the duty of the court to assess the evidence adduced by the claimants and determine the compensation on the touchstone of prudent purchaser in the open market". Therefore, even where burden lies on claimant, the exercise is appreciation of the material on record. It is not only a matter of counting sale deeds. Court has to see whether the evidence taken together would satisfy prudent purchaser in open market. Therefore, these authorities make one thing quite clear. Absence of one particular category of evidence does not finish the enquiry. Burden still remains on the claimant. At the same time, Court cannot avoid its duty merely because one document is not available. Entire evidence produced by both sides still requires appreciation.

47. This Court also gets guidance from *Food Corporation of India v. Makhan Singh*. In paragraph 4, the Supreme Court observed that Courts search for comparable sale transactions near the notification under Section 4 because such transactions provide guidance. But Their Lordships also difficulty by observing that "Somewhere in the process, where difficulties crop up, the courts employ the rule of thumb, since compensation has to be assessed and arms cannot be raised in despair". These observations are important. Supreme Court accepted that perfect evidence is not available in every acquisition matter. If difficulty comes, Court cannot stop the enquiry. Their Lordships observed in the same paragraph that "It is the bounden duty of the court while ascertaining compensation to see that it is just, not merely to the individual whose property is taken, but to the public which is to pay for it". Therefore, Court has to keep balance. Compensation should not become unfairly low because owner has lost property by compulsory acquisition. At the same time, compensation also cannot become fanciful because public money has to bear the burden. These observations answer the submission that absence of one sale instance destroys the claim. Where difficulty comes, Court must complete the exercise by methods.

48. The same principle has been held in detail in *Trishala Jain*. In paragraph 63, the Supreme Court observed that different methods are available for determining compensation and that "Whatever method of determining the compensation is applied by the court, its result should be reasonable, just and fair". Their Lordships observed that "application of some guesswork may be necessary" though such principle will hardly apply where there is "no evidence". Therefore, Court is not tied to one rigid formula. Depending upon the evidence available in a particular case, different methods may be adopted. In paragraph 64 of *Trishala Jain* it is observed that "the guesswork has to be used for determination of compensation with greater element of caution" and that such exercise is intended "to bridge the gap between the calculated compensation and the actual compensation that the claimants may be entitled to receive". Therefore, guesswork does not mean free imagination or writing any amount according to one's own wish. It is only an estimate made because evidence is not perfect. Even that estimate has to remain connected with the facts and surrounding circumstances.

49. Here, it cannot be said that Court has no evidence before it. Previous judgments relating to the same New Bombay Project are available. Expert valuation report has been produced. Oral evidence of claimant is there. Oral evidence of valuer has also come on record. Lease transactions have been relied upon. Documentary material relating to surrounding development has also been produced. Cross-examination of claimant and valuer has taken place. Several earlier judgments concerning the same notification and neighbouring villages have also been cited. Therefore, this case cannot be treated as one of "no evidence". Difficulty is only that contemporaneous sale transaction of Village Bokadvira of year 1986 is not available. Such deficiency is different from complete absence of evidence. In paragraph 65 of *Trishala Jain* it is observed that "Wherever the evidence produced by the parties is not to determine the compensation with itude, this principle can be resorted to." Supreme Court observed that discretion of the Court "has to be reasonable and should have a connection to the data on record produced by the parties by way of evidence." Therefore, law rejects both extremes. It does not permit arbitrary guesswork. What law expects is only a reasonable estimate based upon the material available before the Court.

50. Similar observations are made in *Bhule Ram*. In paragraph 8, the Supreme Court observed that "Valuation of immovable property is not a science, nor can it be determined like an algebraic problem" and that "There is a room for conjecture". But thereafter, it is observed that Court "must act reluctantly to venture too far in this direction." Therefore, some estimation is permissible. Still, such estimation must remain within reasonable limits. Paragraph 9 of *Bhule Ram* explains the idea of "guesstimate" by referring to the observations made in *Trishala Jain*. It distinguishes "Guess" from "calculations" and states that "Guesstimate" is "an estimate based on a mixture of guesswork and calculations." Thus, valuation under the Land Acquisition Act remains between mathematical amount and pure assumption. Available evidence gives one part. Judicial estimation supplies the remaining part. Both together help the Court in reaching fair market value. Determination of market value under the Land Acquisition Act can not become an exercise of arithmetic. Market value is an exercise because Court has to imagine what a willing purchaser would have paid to a willing seller on the relevant date in open market. If one comparable sale transaction is available, work is easier. If such transaction is not available, duty of the Court does not disappear. Court still has to examine previous judgments, comparable transactions, expert opinion, oral evidence, surrounding development, location, potentiality and relevant circumstance appearing from record and arrive at fair market value.

51. For this reason, submission of Mr. Patil that enhancement as claimed cannot be granted merely because direct sale instance is absent cannot be accepted. Court has to follow legal principles, appreciate all available evidence and reach a reasonable conclusion. Accordingly, this Court proceeds on the basis that absence of contemporaneous sale or lease instance of Village Bokadvira for the year 1986 is one relevant circumstance. But that circumstance does not defeat the reference. It requires this Court to examine the remaining evidence with care. Whether the quantification should be based upon earlier judgments relating to acquisitions under the same notification, comparable decisions concerning neighbouring villages, lease transactions relied upon by the claimants, expert valuation report, or the escalation method suggested by the State, are questions which this Court shall now examine in the later part of this judgment.

b) Why post notification lease instance of cannot become basis of true market value:

52. Learned Advocate for the claimants has placed reliance on the lease transaction. According to the claimants, though there is no sale instance of Village Bokadvira for the relevant period, lease premium received by CIDCO under the lease, after making deductions and after converting leasehold value into freehold value, gives a good basis for finding market value. Valuer Mrs. Manjiri Joshi has followed the same way. She started from the lease premium, made deductions, then applied conversion method and reached market value of about Rs.2,500/- per square metre. Submission is that once such calculations are made, and no error is shown in working, Court should accept such valuation.

53. Valuation report contains calculations and reasons. Therefore, on plain reading, exercise looks arranged. Still, Court has to satisfy whether the base on which those calculations are standing is safe. If starting point is not proper, then mathematics may not produce correct market value. The Supreme Court has held that valuation under the Land Acquisition Act is not merely arithmetic exercise. In *Bhule Ram*, paragraph 8, Their Lordships observed that "Valuation of immovable property is not a science, nor can it be determined like an algebraic problem." Supreme Court observed that relevant circumstances like "nature and position of the land, adaptability and advantages, potential value, locality, situation, and size and shape of the land" are also required to be kept in mind while determining compensation. Therefore, before this Court examines whether calculations made by the valuer are correct, it has first to see whether the transaction selected by the valuer reflects the market conditions existing on the date of notification. If that is doubtful, calculations cannot carry matter further.

54. The exercise made by the valuer begins from the lease executed by CIDCO in the year 1990. There is no dispute that notification under Section 4 in the present acquisition was published on 24th December 1986. Therefore, the lease transaction came into existence four years after the relevant date for determining market value. Learned counsel for the claimants argued that merely because lease transaction is after the notification, Court cannot reject it. Reliance has rightly been placed upon *Chimanlal Hargovinddas*, wherein the Supreme Court that "Even post-notification instances can be taken into account" if certain conditions are fulfilled. To this extent, legal position cannot be disputed. Law nowhere says that every transaction after notification is inadmissible. However, difficulty starts from the next stage. Paragraph 4(9) of *Chimanlal Hargovinddas* does not say that every later transaction is reliable evidence. Their Lordships stated that post notification instances can be considered only "if they are proximate, genuine and the acquisition has not motivated the purchaser to pay a higher price on account of the resultant improvement in development prospects." This Court finds that use of the word "and" is important. These three requirements are not alternatives. They are cumulative conditions. Merely because one or two conditions are satisfied does not become sufficient. Unless all three are found together, such transaction cannot become basis for market valuation. Court cannot separate one condition from another because Supreme Court has joined all three together.

55. Keeping these principles in view, this Court finds that more than one difficulty appears in the present case. The first difficulty relates to proximity of time. Notification is of December 1986. Lease transaction relied upon by the claimants is of the year 1990. Gap is about four years. Whether four years can be treated as proximate depends upon facts of each case. If land prices remain unchanged and area continues stagnant, perhaps such gap may not create difficulty. But evidence available before this Court shows that this whole region was passing through continuous planning and developmental activities connected with the New Bombay

Project. Both parties referred to JNPT, planning of Dronagiri Node, industrial estates, and CIDCO development plans. Their dispute is not whether development happened. Dispute is regarding extent and timing of such development. Therefore, this Court cannot ignore that period between 1986 and 1990 was not ordinary. During those years many changes were taking place. Market could not have remained standing at one place.

56. The Supreme Court in *ONGC v. Rameshbhai Jivanbhai Patel*, paragraph 13, observed that increase in land prices depends upon "situation of the land, nature of development in surrounding area, availability of land for development in the area, and the demand for land in the area." Their Lordships held that in urban or semi urban areas "where the development is faster" increase in land value is much higher than in rural areas. Therefore, where surrounding area is changing continuously, time gap is more significant than in village where nothing much happens for years together. Again, paragraph 15 of *ONGC* holds that annual escalation method remains safe where "the relied-on sale transactions/acquisitions precede the subject acquisition by only a few years, that is, up to four to five years." But thereafter it is held that "Beyond that it may be unsafe" because with passage of time even "the rate of annual increase may undergo drastic change." These observations show that time gap is important while considering later transactions. Increase in value may remain slow. Sometimes it may become fast because of new development. Therefore, Court has to remain careful while depending upon later transactions. Paragraph 16 of ONGC holds that "Courts should, therefore, avoid determination of market value with reference to subsequent/future transactions." Supreme Court held that once acquisition is announced, proposed development, and new infrastructure may increase surrounding land prices. If that happens, future transactions may no longer show what the market value was on the notification date. In other words, later transaction may partly reflect future expectations.

57. Similar observations are made in *Lal Chand*. In paragraphs 26 and 27, it is observed that it is "difficult to arrive at the market value of a freehold property with reference to the premium for a leasehold plot" allotted by a development authority and concluded that "it is not safe or advisable to rely upon the allotment rates/auction rates" of developed plots while determining market value of adjoining undeveloped lands. These observations apply while appreciating the lease.

58. The second difficulty relates to the nature of the transaction. transaction is not sale between two persons dealing freely in open market. It is lease executed by CIDCO. CIDCO is not owner. It is New Town Development Authority constituted for planning and developing New Bombay. Development and disposal of land form part of its functions. Therefore, when CIDCO grants developed commercial plots on lease, such disposal does not stand on same footing as sale of agricultural land between two villagers. Character of transaction is different. Paragraphs 23 to 27 of *Lal Chand* explain why such transactions require caution. Supreme Court held that development authorities may adopt different rates depending upon class of allottee, policy considerations and nature of allotment. Paragraph 26 records that “it is difficult to arrive at the market value of a freehold property with reference to the premium for a leasehold plot” and paragraph 27 concludes that “it is not safe or advisable to rely upon the allotment rates/auction rates” of developed plots while valuing adjoining undeveloped lands. This Court finds substantial force in applicability of those observations to the present case. Acquired lands in the present case were agricultural lands. On the other hand, plot was commercial land leased by the planning authority after development had progressed. One belongs to undeveloped agricultural surroundings. Other belongs to developed commercial surroundings. Therefore, both cannot be treated as standing on common footing. Nature of land, stage of development and purpose of use are different.

59. Mr. Patil, therefore, submitted that this transaction reflects CIDCO's commercial disposal policy prevailing during that period rather than market value of undeveloped agricultural land existing in December 1986.

60. Lease was granted by the planning authority after invitation of tenders. Such transaction indicates commercial demand then prevailing, policy of CIDCO and infrastructure available during that later point of time. Whether purchaser would have paid the same amount for raw agricultural land in December 1986 is a different question. Court cannot assume both situations to be identical. The Supreme Court in *Manipur Tea Co*, paragraph 4, framed this test by observing that “The question is whether the land under acquisition, if put to the sale in an open market, would be capable of securing the same price as offered by way of determination of the compensation after compulsory acquisition.” Likewise, *Hookiyar Singh*, paragraph 6, observes that court that while fixing compensation, “must not indulge in feats of imagination but, sit in the armchair of a prudent purchaser in open market" and ask "whether as a prudent purchaser it would offer the same price in the open market as is to be determined.”

61. Applying this test, this Court finds difficulty in accepting that undeveloped agricultural land situated at Village Bokadvira in December 1986 would fetch the same value which CIDCO received while leasing out developed commercial plot four years later under its planned development scheme. Purchaser buying agricultural land in 1986 and commercial bidder participating in CIDCO lease process in 1990 cannot be treated as standing in same position.

62. Learned counsel for the claimants also relied upon *Kapil Mehra* and argued that leasehold value can be converted into freehold value after making suitable addition. Proposition stated in paragraphs 21 to 24 of the said judgment cannot be disputed. Supreme Court held conceptual difference between leasehold and freehold properties and approved suitable adjustment in cases. However, issue before this Court is different. Real question here is not only how much addition should be made while converting leasehold into freehold. Question is whether selected lease transaction provides safe benchmark. Unless that question is answered in affirmative, later exercise of conversion loses its significance.

63. For all these reasons, this Court is unable to treat the lease as basis for determining market value of the acquired lands. Consequently, amount of about Rs.2,500/- per square metre reached by the valuer, which originates from this lease transaction, cannot be accepted as final.

c) Why the State's contention of underdevelopment, though true, cannot by determine the market value.

64. Mr. Patil learned Additional Government Pleader argued in detail that Village Bokadvira, on the date of publication of notification under Section 4, was nothing more than one agricultural village having few civic facilities. After reading examination-in-chief and cross-examination of the claimant as well as the valuer, this Court finds that several admissions have come on record. Claimant admitted that in the year 1986 there was no primary school or secondary school in Village Bokadvira. He admitted that there was no Primary Health Centre in the village. He also admitted that village was not then falling within the limits of Uran Municipal Council. According to his admission, even till the year 2019 village continued under Gram Panchayat. He admitted that even in the year 2019 there was no regular market in the village and people had to go to Uran, Panvel or Vashi for their daily commercial requirements. Similarly, valuer Mrs. Manjiri Joshi made admissions during her cross-examination. She accepted that acquired land was agricultural land. She admitted that land was situated about 23 to 25 kilometres away from the Bombay Pune National Highway. She admitted that Jawaharlal Nehru Port started functioning only in the year 1990. She also admitted that there was no MIDC in Village Bokadvira during the year 1986 and nearest industrial area was situated at Taloja. She accepted that there was no post office in the village during the relevant period. She also admitted that substantial part of her valuation exercise depended upon post notification lease instances.

65. There is no material placed before this Court to explain these admissions. Therefore, this Court has no hesitation in holding that these facts stand duly proved on record. Learned Additional Government Pleader therefore rightly submitted that these admissions show that Village Bokadvira did not possess many civic facilities seen in developed urban areas. To this extent, submission deserves acceptance.

66. Supreme Court has held that while determining market value Court cannot ignore physical condition of the land. Paragraph 8 of *Bhule Ram* holds that while determining market value Court has to consider "*the nature and position of the land to be acquired, adaptability and advantages, the locality, situation and size and shape of the land*" and also "*the market value of the land at the time of notification under Section 4.*" Again, paragraph 11 of it is held that "*The market value of the land should be determined taking into consideration the existing geographical situation of the land, existing use of the land, available advantages*" including "*proximity to national or State highway*" and surrounding circumstances. Therefore, learned Additional Government Pleader is correct in contending that existing condition of the land cannot be left out while fixing compensation.

67. Similarly, in *Chimanlal Hargovinddas*, paragraph 4(12) directs Court to prepare balance sheet of "*plus and minus factors*". Paragraph 4(14) gives examples of such minus factors. Among them are "*largeness of area*", "*situation in the interior at a distance from the road*", "*remoteness from developed locality*" and "*some special disadvantageous factor which would deter a purchaser*." Therefore, law requires Court to notice disadvantages attached to acquired land. Those circumstances cannot be ignored only because claimants have relied upon surrounding development and future potential. Thus, Mr. Patil is correct in submitting that absence of civic facilities, agricultural nature of land and remoteness from developed locality are relevant matters. These are minus factors under settled law. If one prudent purchaser was thinking of purchasing this land in December 1986, he would first see condition of village before deciding what amount should be offered.

68. In *Hookiyar Singh*, paragraph 6, holds that Court "*must not indulge in feats of imagination*" and that Judge has to "*sit in the armchair of a prudent purchaser in open market*" while determining market value. Purchaser purchasing agricultural land in December 1986 would notice whether village had schools, roads, industries, hospitals, and other civic facilities. Therefore, proved facts regarding absence of such facilities cannot be overlooked by this Court. Accordingly, this Court records a finding that evidence on record shows that Village Bokadvira was not a developed urban settlement in December 1986. It was an agricultural village having limited civic infrastructure. This factual position stands established from the evidence.

69. Another question is whether these proved facts are enough to determine market value. In the opinion of this Court, answer has to be in the negative. Market value under the Land Acquisition Act is never decided only by number of schools, hospitals, post offices or municipal facilities available in village. Those matters are relevant. But they are not the only matters. Law requires Court to see complete picture including location, future potential, surrounding development and comparable instances. *Bhule Ram* in paragraph 8 refers not only to existing use of land but also to "*adaptability and advantages*" and "*potential value*." Likewise, *Chimanlal Hargovinddas* in paragraph 4(16) holds that "*Every case must be dealt with on its own fact pattern bearing in mind all these factors as a prudent purchaser of land in which position the judge must place himself.*" Therefore, Court cannot choose unfavourable circumstances and ignore surrounding circumstance which may influence market value.

70. Evidence available on record shows that present acquisition was not sole acquisition of Village Bokadvira. Entire acquisition formed part of New Bombay Project. Material placed before this Court shows that nearly ninety-six villages were brought under one exercise. CIDCO was constituted as New Town Development Authority. Common development plans were prepared for the whole region. Notifications may have been issued village wise, but planning authority formed one integrated development scheme covering these villages together. Therefore, acquired land was not agricultural land lying outside planned development. It formed one part of one large project extending over a wide area. Mr Patil learned Additional Government Pleader emphasised absence of schools, health centre, MIDC, post office and municipal limits inside Bokadvira. These facts are true. But Court cannot lose sight of fact coming from the record, namely that Bokadvira had become part of notified New Town Development Scheme much before the present notification. This circumstance has direct bearing upon market potential. Market does not see only facilities existing on that day. Market also takes into account future possibilities which appear from the planning process. Claimants have relied upon several earlier judgments relating to Roadpali, Wadghar, Padaghe and other neighbouring villages forming part of the same project. Whether those judgments should govern the present case is a question which this Court shall examine in later part of this judgment. Still, one circumstance cannot be ignored. Those villages formed part of the same planning process. Therefore, this Court cannot assess Bokadvira as if it was one isolated agricultural village.

71. Supreme Court has made observations against arbitrary discrimination between similarly situated lands. In *Ali Mohammad Beigh*, in paragraph 12, it is held that "*When the lands are more or less situated nearby and when the acquired lands are identical and similar and the acquisition is for the same purpose, it would not be to discriminate between the landowners unless there are strong reasons.*" The Supreme Court approved earlier decision in *Union of India v. Harinder Pal Singh*, wherein it was observed that where different villages formed one unit and acquisition was for the same purpose, adoption of a uniform approach was justified. More recently, in Krishan Kumar, in paragraph 18(a), Supreme Court stated that "*A fundamental principle in land acquisition jurisprudence is that lands with similar locational and developmental potential must be compensated equitably unless clear, objective distinctions justify otherwise.*" It is observed that "*Arbitrary differentiation in compensation... violates settled constitutional principles of fairness and equality.*" in paragraph 18(d) it is held that "*Compensation cannot be assessed in a mechanical or formulaic manner but must be guided by considerations of equality, equity, and justice.*"

72. No evidence has been produced to show that because of these deficiencies the developmental potential of Bokadvira, as part of New Bombay Project, became different from neighbouring villages covered by the same development scheme. There is no expert evidence, no planning material and no other record showing that market would have treated Bokadvira as belonging to different category. This distinction is important. There is difference between proving that one village had fewer civic facilities and proving that its market potential was inferior. First proposition stands proved. Second proposition requires evidence, and such evidence is not available.

73. Supreme Court in *Kanwar Singh*, paragraph 9, no doubt observed that lands situated in different villages cannot receive identical compensation because "*there would be different situation and potentiality of the land situated in two different villages unless it is proved that the situation and potentiality of the land in two* *different villages are the same."* This principle is binding upon this Court. However, same judgment proceeds on factual basis that evidence existed showing different situation and different potentiality. Therefore, judgment indicates that conclusion depends upon evidence available in the particular case.

74. In the present case, State has proved differences regarding civic facilities. Whether those differences were to destroy parity arising from common acquisition is a different enquiry. This Court is unable to hold that absence of school, health centre or post office establishes inferior market potential in the absence of such comparative evidence. Otherwise, every acquisition involving several villages would require separate reduction depending upon number of schools, dispensaries, or post offices available inside each village, although all villages formed part of one development project. Such approach may create uncertainty. It may also result in unequal compensation without evidence regarding actual market potential.

75. *Bhule Ram* holds in paragraph 11 that market value has to be determined after considering "*existing geographical situation of the land, existing use of the land, available advantages*" together with surrounding circumstances. Therefore, existing disadvantages deserve due weight. At the same time, they cannot become the only factor. Court has to see the whole picture.

76. Accordingly, this Court holds that picture presented by learned Additional Government Pleader regarding existing condition of Village Bokadvira is supported by evidence. Village was agricultural. Several civic amenities were absent. Industrial activity had not yet started within the village. These are relevant minus factors which this Court has to keep in mind while making final assessment.

77. Nevertheless, this Court is of the opinion that those minus factors cannot become sole basis for determining market value. They have to be weighed together with relevant circumstances that land formed part of common New Bombay Development Scheme, acquisition was for the same public purpose, village stood included within one planning process and comparable judgments relating to neighbouring villages under the same development project are available on record. It is only after balancing all these circumstances together, as contemplated in *Chimanlal Hargovinddas*, paragraph 4(12), by considering plus and minus factors, that Court can arrive at just and fair market value. Evidence showing underdevelopment is not to conclude that Village Bokadvira deserved lower market value than every other village forming part of the same acquisition scheme.

<u>d) Why the escalation method or ONGC method is not adopted as the primary method in the present case:</u>

78. Mr. Patil learned Additional Government Pleader submitted that since there is no direct sale instance available of the relevant period, market value should be fixed by adopting the escalation method held by the Supreme Court in *General Manager, O.N.G.C. Ltd. v. Rameshbhai Jivanbhai Patel* and other decisions. According to the State, once market value determined for acquisition of the year 1970 is available, yearly increase can be added till the notification dated 24 December 1986 and by making such calculation, market value can be worked out. In suitable cases, where comparable evidence is not available, the Supreme Court has accepted this method as one permissible way of determining compensation. Therefore, this Court is not saying that the ONGC method is wrong in law or that it can never be applied. Real question is whether, in the facts of the present case, this method gives the satisfactory basis for fixing market value.

79. Supreme Court in *ONGC*, in paragraph 13, held why escalation method is applied. It is observed that "*Primarily, the increase in land prices depends on four factors: situation of the land, nature of development in surrounding area, availability of land for development in the area, and the demand for land in the area.*" Therefore, increase in market value does not happen according to one fixed rule. It depends upon surrounding facts. Supreme Court pointed out that lands situated in different places may not increase in value in the same manner because development, demand and local circumstances are never the same in each area. Paragraph 14 of the same judgment explains that in rural areas yearly increase may be "*about 5% to 7.5% per annum*" whereas in urban or semi urban areas increase may be "*about 10% to 15% per annum.*" But thereafter it is observed that "*This rule of thumb refers to the general trend*" and it is to be applied "*in the absence of clear and specific evidence relating to increase in prices.*" Therefore, these observations show that yearly escalation is not one hard and fast rule which must be followed. It is only a guide to be used where better evidence is not available before the Court.

80. In paragraph 15 of ONGC it is observed that “*Normally, recourse is taken to the mode of determining the market value by providing escalation over the proved market value of nearby lands in previous years”* where direct evidence is not available. But Their Lordships added one caution. Supreme Court observed that “*The said method is safe where the relied-on sale transactions/acquisitions precede the subject acquisition by only a few years, that is, up to four to five years.”* Thereafter, it is held that “*Beyond that it may be unsafe*" because "*the rate of annual increase may undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the standard of increase.”*

81. These observations become important while deciding the present controversy. In the present matter, learned Additional Government Pleader suggested that market value fixed for acquisition of the year 1970 should be taken as the starting point and thereafter yearly escalation should be granted till the year 1986. One difficulty comes before this Court. Gap between the two acquisitions is sixteen years. It is not four or five years which Supreme Court described as safe. It is a period extending over more than one and half decades. Therefore, caution recorded by the Supreme Court in paragraph 15 of ONGC applies to the present case. Supreme Court held that after such long period “*the rate of annual increase may undergo drastic change*.” When law says that such long interval may become unsafe, this Court cannot continue adding one fixed percentage every year without examining what happened in the area during all those years. Reason behind this appears to be simple. Land prices do not move in one straight line. Sometimes prices remain unchanged for many years. Sometimes they suddenly rise because one public project comes near the land. Sometimes, increase again is slow; sometimes, prices rise because roads, industries, or transport facilities begin functioning. Therefore, one fixed percentage may not show the true market value during a long period.

82. Material available before this Court shows that New Bombay Project was not completed in one day. It gradually moved over several years. CIDCO came into existence as New Town Development Authority. Development plans were prepared. Planning of Dronagiri Node, development of surrounding region, construction of infrastructure and commencement of Jawaharlal Nehru Port took place at different stages. Parties have never disputed that development took place. Dispute between them is regarding at what stage and to what extent such development affected market value. Therefore, this Court cannot proceed as though the whole region remained in the same condition from the year 1970 till the year 1986. Material available on record shows that this area was passing through continuous planning and development. In such circumstances, one uniform yearly increase may not represent the actual market value throughout the entire period.

83. This also finds support from paragraph 13 of ONGC, where Supreme Court observed that increase in market value depends upon "*nature of development in surrounding area*" and "*demand for land in the area.*" Thus, appreciation depends upon changing ground realities and not merely upon passing of years. Similarly, paragraph 16 of ONGC it is observed that "*Courts should, therefore, avoid determination of market value with reference to subsequent/future transactions.*" Supreme Court also held the reason. After acquisition is announced and development begins, surrounding lands may become more valuable because of proposed infrastructure. Consequently, later transactions may no longer indicate the market value on the earlier notification date. Though paragraph 16 speaks about future transactions, principle behind it is useful in the present matter. It shows that increase in land value does not happen gradually. Large development projects may produce increase during particular periods. If that is so, one uniform percentage applied over sixteen years may not represent the actual market value during every stage of that period.

84. Learned Additional Government Pleader also relied upon *Om Prakash.* This Court has gone through that judgment. Paragraphs 9 to 11 show that Supreme Court accepted annual escalation in the facts of that case. But at the same time it is held that the High Court had examined different methods including progressive increase, cumulative increase and flat rate increase before arriving at a reasonable conclusion after considering facts of that particular acquisition. Therefore, *Om Prakash* does not lay down that escalation must become the first method whenever sale instance is absent. It merely holds escalation as one method depending upon facts of each case.

85. Learned Additional Government Pleader relied upon *Dinkar Balu Bhopi*, along with *ONGC* and *Om Prakash*, for submitting that where comparable sale instances are absent, yearly escalation provides one solution. To that extent, submission deserves acceptance. Law holds escalation. But every method need not become the preferred method in every case. Court has to adopt that method which gives confidence after considering evidence available before it. This is not a case where Court has nothing except acquisition of the year 1970. Record before this Court contains several judgments relating to villages acquired under the same notification of the year 1986 forming part of the same New Bombay Project. Claimants have relied upon judgments concerning Roadpali, Wadghar, Kolikopar, Bokadvira and Padaghe. Still, their existence changes the position. This is not a case where Court is compelled to travel back sixteen years only because no other material is available. Supreme Court in *Trishala Jain*, in paragraph 63, observed that compensation may be determined "*based upon comparable sale instances, awards and judgments relating to the similar or comparable lands*" and observed that "*Whatever method of determining the compensation is applied by the court, its result should be reasonable, just and fair.*" Again, paragraph 64 explains that "*the guesswork has to be used… to bridge the gap between the calculated compensation and the actual compensation*" and not for replacing reliable evidence available on record. These observations become applicable in the present matter.

86. Where comparatively nearer judgments concerning acquisitions under the same notification are available, this Court finds assurance in examining those judgments instead of constructing market value by applying assumed yearly increase over a period of sixteen years. Same approach finds support from *Chandrashekhar*, paragraphs 25 and 26, and *Karan Singh*, paragraph 8, wherein Supreme Court held that previous judgments relating to comparable lands may furnish basis for determining market value, provided surrounding facts and evidence are examined. Thus, previous judgments constitute one mode of valuation.

87. Looking to the peculiar facts of the present case, this Court finds such judgments relating to acquisitions under the same notification to be comparatively more direct indicators than projection beginning from acquisition of the year 1970. There is one more reason which persuades this Court not to adopt escalation as the principal method. Paragraph 18 of ONGC explains that where yearly increase is adopted "*the method is to calculate the increase cumulatively and not applying a flat rate.*" Paragraph 19 states that "*The logical, and method is therefore to apply the increase cumulatively and not at a flat rate.*" Therefore, even after deciding to adopt escalation method, Court still has to answer several questions. Whether cumulative increase should be adopted or flat increase. What yearly percentage should be selected. Whether land should be treated as rural, semi urban or urban. Whether same rate remained throughout the entire sixteen years. Whether any abnormal increase took place because of New Bombay Project or surrounding infrastructure. They may create uncertainty.

88. This Court therefore is of the considered opinion that escalation method remains permissible mode of valuation. However, having regard to long interval between acquisition of the year 1970 and the present acquisition, developmental changes taking place in the New Bombay Project during the intervening years, caution directed by the Supreme Court in paragraph 15 of ONGC, and availability on record of several judgments relating to acquisitions under the same notification of the year 1986, escalation method cannot be treated as the principal basis for fixing market value in the present case.

89. Accordingly, while principles laid down in *ONGC, Om Prakash* and other connected decisions continue to remain guiding principles, this Court finds it more to examine previous judgments relating to comparable villages acquired under the same notification, together with the remaining evidence available on record, and thereafter determine market value by making one overall assessment.

e) Why previous judgments relating to sister villages, and particularly Village Bokadvira , constitute the most reliable material available on record.

90. In my opinion, answer is found in the earlier judgments relating to lands acquired under the same notification, for the same public purpose and as part of the same New Bombay Project. These judgments are relied because each judgment is on merits after recording evidence. Therefore, these judgments stand on a different footing than one isolated sale transaction. Mr. Patil learned Additional Government Pleader argued that previous judgments cannot govern every later case. As a legal proposition, this submission cannot be disputed. Supreme Court has never held that one judgment mechanically controls every later land acquisition reference. On the contrary, Supreme Court has held that before relying upon any earlier judgment, Court has first to see whether it relates to comparable lands and whether surrounding facts make it for application.

91. In *City Improvement Trust Board v. H. Narayanaiah*, paragraphs 25 to 27, Supreme Court held that previous judgments are not judgments in rem. They do not become final only because they concern neighbouring lands. Their admissibility depends upon provisions of the Evidence Act and their relevance has to be established. Their Lordships also observed that "*Even slight differences in situation can, sometimes, cause considerable differences in value.*" This Court keeps that in mind. Similarly, in *Chandrashekhar v. Land Acquisition Officer*, paragraph 25, Supreme Court referred to earlier decision in *Pal Singh* and that "*a judgment of a court in a land acquisition case determining the market value of a land in the vicinity of acquired lands... could be admitted in evidence either as an instance or one from which the market value of the acquired land could be deduced or inferred.*" However, Supreme Court added one more condition. It is observed that "*it must have been proved by the person relying upon such judgment by adducing evidence aliunde that due regard being given to all attendant facts and circumstances, it could furnish the basis for determining the market value of the acquired land.*"

Again, paragraph 26 repeats that the real test is whether "*due regard being given to all other attendant facts and circumstances*" such previous judgment can become basis for fixing market value. Therefore, previous judgments cannot be accepted without examination.

92. They also cannot be rejected without reason. They must first be tested. If they satisfy that test, they become valuable evidence. Same principle appears in *Karan Singh*, paragraph 8, where Supreme Court held that "*it is only the previous judgment of a court or an award which can be made the basis for assessment of the market value of the acquired land*" provided evidence is available showing that "*due regard being given to all attendant facts it could form the basis for fixing the market value.*" Thus, legal position appears that Court can rely upon previous judgments. But before doing that, Court has to satisfy that they are comparable. Applying these principles to the present matter, this Court finds that previous judgments relied upon by the claimants satisfy these requirements to a considerable extent. These earlier judgments are not relating to acquisitions made many years apart. They are not relating to different public projects. They are not concerning different geographical regions. They arise from the same New Bombay Project. They relate to acquisitions under the same notification dated 24 September 1986. They concern neighbouring villages forming part of the same planned development. Acquiring body is the same. Planning authority is the same. Overall development scheme remains the same. Most importantly, much of the documentary evidence, expert material and surrounding background is almost common from one matter to another. Therefore, basis for treating these judgments as comparable is stronger than what is found in acquisition matters relating to different projects.

93. The learned Additional Government Pleader has raised a specific objection. According to him, the earlier Bokadvira judgment cannot be relied upon because the rate of Rs.1,725/- per square metre was based upon an earlier determination concerning Roadpali. It is submitted that if the Roadpali determination is now under doubt, the subsequent Bokadvira judgment which relied upon that rate must also be reconsidered. This submission requires examination.

94. The earlier Bokadvira judgment does show reliance upon the earlier judgment concerning Wadhghar. It records that the lands at Bokadvira were required to be treated on par with the lands at Wadhghar and in the circumstances, the market value of Rs.1,725/- per square metre determined for Wadhghar ought to be followed. Therefore, it cannot be said that the earlier Bokadvira judgment made a fresh determination of the rate from the beginning. This aspect is relevant. A market value does not become correct merely because the same figure is repeated in another judgment. The Court has to see on what basis the earlier figure was fixed. If a later judgment merely repeats an earlier rate without examining whether the lands were comparable or whether the circumstances were similar, such repetition cannot be sufficient.

95. The learned Additional Government Pleader has pointed out that the Wadhghar judgment, which formed an important part of the earlier chain of judgments, has been remanded to this Court. This submission also requires consideration. Once a judgment has been remanded, it cannot be treated as a final judgment of the market value. The Court therefore has to be careful before treating the rate fixed in such judgment as conclusive. But the remand of Wadhghar does not wipe out every later judgment which referred to Wadhghar. The effect of the remand has to be considered in relation to each later judgment. If a later judgment depends entirely upon the remanded judgment and contains no other supporting material, its weight becomes less. But if the later judgment has independently considered the location, development, comparability and other circumstances, the remand of the earlier judgment would not destroy the value of the later judgment.

96. The same approach has to be adopted regarding Roadpali. The learned Additional Government Pleader has submitted that Roadpali cannot be relied upon in view of the decision in *Babibai*. This submission is important because the earlier rate of Rs.1,725/- for Roadpali forms part of the chain through which the same rate came to be considered in later matters. The Court therefore cannot proceed on the assumption that the Roadpali rate is beyond examination. At the same time, merely because there is doubt regarding Roadpali, the question relating to Bokadvira is not answered. This Court has to see whether the rate of Rs.1,725/- for Bokadvira can be supported from the material concerning

Bokadvira. This is important because the earlier Bokadvira judgment considered the location of the lands, their distance from roads and railway, the proximity of industrial development and JNPT and their inclusion in the New Bombay Development Plan. After considering these circumstances, the earlier Court held that Bokadvira had to be treated on par with Wadhghar and adopted the rate of Rs.1,725/- per square metre. There is another circumstance which also cannot be ignored. The earlier Bokadvira judgment was not based merely upon a statement that the area was developing. Actual distances and actual surrounding development were placed before the Court. Uran City was stated to be about 2 kilometres away. ONGC activities were less than 2 kilometres away. Bhendkal Industrial Estate was about 500 metres away. JNPT activities were about 3 kilometres away. The Uran-Panvel railway line was about 250 metres away and State Highway No.41 was about 280 metres away. These matters formed part of the material considered in the earlier proceedings. The earlier judgment also considered the disadvantages. The land was agricultural. It was being used for paddy and ruckus. It depended upon the monsoon and there was no water supply to the land. The judgment also noticed that the New Bombay Development Plan reserved Village Bokadvira for residential purpose. Thus, the earlier Court had before it both the favourable and unfavourable circumstances. This is important while considering the submission that absence of schools, hospitals, and other local facilities should result in a lower value. These circumstances operate against the claimants. But they cannot be considered separately from the other circumstances. The market value has to reflect the position which a reasonable purchaser would have considered on the relevant date. The absence of a school in the village is one circumstance. The location near roads, railway, industrial estates and a planned development area is another circumstance. Both have to be considered.

97. Therefore, this Court cannot accept either of the two extreme submissions. It cannot say that Rs.1,725/- per square metre must be accepted only because the same figure appears in earlier judgments. At the same time, it cannot say that the figure must be rejected only because one of the earlier judgments in the chain is based upon another judgment which is now being questioned. The proper course is to examine the basis of the earlier rate and then see whether the independent material concerning Bokadvira supports that rate or gives reason to reduce it. In the present case, the material concerning Bokadvira does provide such support. The earlier Bokadvira judgment considered the location and surrounding development in some detail. The planning status of the village was also considered. The proximity of important infrastructure and industrial activities was taken into account. The agricultural nature of the land and the absence of certain facilities were also noticed. It is therefore not possible to hold that the rate of Rs.1,725/- for Bokadvira rests only upon Roadpali. Roadpali may have formed part of the earlier judicial background through which the rate came to be considered. But the earlier Bokadvira determination also contains material concerning Bokadvira. The judgment considered the distance from roads, railway line, industrial estates, Uran City, JNPT and other surrounding development. It also considered the agricultural character of the lands and the stage of development in the year 1986. Thus, the earlier determination was not based only upon the rate fixed for another village. There was material relating to Bokadvira which was considered before the rate was adopted. This is important while deciding whether the earlier rate can still be considered as a relevant judgment.

98. The learned Additional Government Pleader raised objections regararding the judgment concerning Padghe. It is submitted that although the Padghe judgment referred to Roadpali, Wadhghar, Kolikopar and Bokadvira, it did not explain why Rs.1,725/- per square metre should be applied to Padghe. According to the learned Additional Government Pleader, merely because the same rate has been repeated in different judgments, that rate cannot become the correct market value.

99. There is substance in this submission to the limited extent. The Padghe judgment records the earlier judgments concerning Roadpali, Wadhghar, Bokadvira and Kolikopar and refers to what happened subsequently in those matters. It records that Rs.1,725/- had been determined for Roadpali and Wadhghar, that the Bokadvira matter was pending, and that Kolikopar had been valued at Rs.1,380/- per square metre. It refers to another matter concerning Bokadvila where the rate of Rs.1,725/- had been granted. The Padghe judgment proceeded on the basis that Rs.1,725/- per square metre was the proper rate. It records that compensation at that rate had been granted to nearby villages and that, in the view of the Court, the same rate was for Padghe. The Reference Court had referred to the judgments in *Trimbak Thakur* and *Ashok Wani*, but had reduced the rate to Rs.1,500/- because the acquired land was 160 metres away from the land considered in *Trimbak Thakur*. The appellate Court did not accept that approach and held that Rs.1,725/- per square metre was the proper rate. It would therefore not be correct to say that the Padghe judgment gives no reason at all for adopting Rs.1,725/- per square metre. There is a reason. However, the reasoning is based upon the earlier judgments concerning the nearby villages and the view that the same rate was appropriate. The question is whether this makes the Padghe judgment an independent basis for deciding the present appeals. In my view, it does not. The Padghe judgment can be considered as a relevant judgment. But the weight to be given to it has to be considered along with the evidence available in the present proceedings.

100. The objection regarding Padghe is somewhat different. The Padghe judgment places considerable reliance upon the rates determined for nearby villages. Its reasoning is not as detailed as an independent valuation based upon contemporaneous sale transactions. This reduces the weight which can be given to Padghe as an independent basis for valuation. But it does not make the judgment irrelevant. It remains a judgment concerning land situated in the same larger development area and can be considered along with the other evidence. The Court also finds that the fact that Padghe does not give an independently assigned reason for every part of the rate does not mean that the rate has no evidentiary value at all. A later Court considering an earlier judgment need not treat that determination in the same manner as a sale deed. The Court has to see whether the lands were comparable, whether relevant material was before the earlier Court and whether there is any circumstance showing that the rate was wrong. The earlier judgments therefore have to be read together with the evidence in the present proceedings.

101. At the same time, this Court is conscious that an earlier judgment of market value cannot take the place of evidence. Rs.1,725/- is not a figure which has to be accepted merely because it appears in an earlier judgment. If the present evidence shows that Bokadvira was materially inferior in location, development potential or any other relevant aspect, suitable adjustment may have to be made. Equally, if the present evidence shows that the factors which supported the earlier rate were existing on the relevant date, there would be no proper reason to reduce the rate merely because the respondents seek a lower valuation.

102. The submission of the learned Additional Government Pleader is therefore accepted to the extent that the earlier judgments require careful examination. This Court cannot blindly rely upon Roadpali, Wadhghar or Padghe. The remand of Wadhghar and the objection arising from the decision in *Babibai* are relevant circumstances. The limited independent reasoning in Padghe is also a matter which affects the weight to be given to that judgment. However, the submission cannot be accepted to the extent that these circumstances, require reduction of the market value of Bokadvira. There is material concerning Bokadvira. The earlier Bokadvira judgment considered the location, surrounding development, planning status and the adverse agricultural circumstances. After considering these matters, the rate of Rs.1,725/- per square metre was adopted. The Court therefore finds, at this stage, that the absence of schools, hospitals, industries, and local civic facilities is a relevant negative factor. But it is not a new factor. The same factual position was available before the earlier Court. No fresh circumstance has been shown which establishes that Bokadvira, when compared with the lands considered in the earlier judgments, was inferior in its development potential so as to require a lower rate.

103. There is one more circumstance which supports the case of the claimants. Learned Single Judge, in judgment dated 17.04.2026 relating to Village Padaghe, again examined this controversy. By that time, observations made in *Babibai Babu Patil* were available. Objections raised by the State before this Court were also available. Learned Judge was aware about arguments relating to deductions, lease transactions, Roadpali, Jui Kamothe and comparable valuation. Still, after considering all those submissions, learned Judge fixed market value at Rs.1,725/- per square metre. This circumstance is important for one more reason. It shows that even after observations made in *Babibai,* appreciation of evidence did not require deviation from the amount of Rs.1,725/-. On the contrary, after examination of evidence, same valuation came to be accepted. Material placed before this Court shows that this judgment was challenged by CIDCO before Supreme Court. Special Leave Petition came to be dismissed.

Again, this Court is not treating dismissal of Special Leave Petition as declaration of law. Still, consequence cannot be ignored. Valuation fixed by learned Single Judge was allowed to continue. This also is one more circumstance giving support to its persuasive value.

104. Mr. Patil, learned Additional Government Pleader relied upon *Kanwar Singh* for contending that compensation fixed for one village cannot become compensation for another village. Paragraph 9 of Kanwar Singh observes that "*there would be different situation and potentiality of the land situated in two different villages unless it is proved that the situation and potentiality of the land in two different villages are the same.*" This principle is binding. If two villages are different in location, development and potential, parity cannot be claimed because they are situated nearby. However, present facts stand on different footing. Here, evidence shows that these villages formed part of one development plan. They were acquired under the same notification. Acquisition was for common purpose. Planning authority was the same. Overall development concept was one.

105. Therefore, this Court cannot ignore another binding principle laid down later by Supreme Court. In *Ali Mohammad Beigh*, paragraph 12, it is held:

> "*When the lands are more or less situated nearby and when the acquired lands are identical and similar and the acquisition is for the same purpose, it would not be to discriminate between the landowners unless there are strong reasons.*"

106. Supreme Court approved earlier decision in *Harinder Pal Singh*, where it was observed that where several villages formed one stretch under one common acquisition, approach requiring uniform valuation was justified. This principle has received support in *Krishan Kumar*. Paragraph 18(a) again states that "*lands with similar locational and developmental potential must be compensated equitably unless clear, objective distinctions justify otherwise.*" Paragraph 18(b) observes that "*the use of an isolated transaction to justify such a disparity is per se erroneous*" where there is no evidence showing genuine difference in developmental potential. Most importantly, paragraph 18(d) cautions against "*an excessively positivist approach*" and emphasises that "*Compensation cannot be assessed in a mechanical or formulaic manner but must be guided by considerations of equality, equity, and justice.*" In my opinion, these observations apply to facts of the present case. State has proved that Village Bokadvira did not have several civic amenities in the year 1986. This Court has accepted those facts. However, State has not produced material to show that, although Bokadvira formed part of the same integrated New Bombay Project and was covered by the same acquisition notification, it possessed such inferior developmental potential that it deserved lower valuation than other similarly situated villages. Difference shown by the State relates to existing civic facilities. It does not establish materially different potential within the common acquisition scheme.

107. Therefore, this Court finds that principle laid down in *Ali Mohammad Beigh* and reaffirmed in *Krishan Kumar* is more applicable on the facts of the present matter than the principle in *Kanwar Singh*, because *Kanwar Singh* holds that different treatment is justified only where material difference in potential is proved by evidence.

108. There is one more reason which persuades this Court to place reliance upon these earlier judgments. Supreme Court in *Trishala Jain*, paragraph 59, while quoting *Charan Dass,* observed that "*in the absence of sale deeds, the judgments and awards passed in respect of acquisition of lands, made in the same village and/or neighbouring villages can be accepted as valid piece of evidence and provide a sound basis to work out the market value of the land after suitable adjustments."* Again, paragraph 63 holds "*awards and judgments relating to the similar or comparable lands"* as one accepted method of valuation. Therefore, course which this Court proposes to adopt also receives support from judgments of Supreme Court.

109. For all these reasons taken together, this Court is satisfied that previous judgments relating to Village Bokadvira and other similarly situated villages covered under the same notification constitute dependable material available on record. These judgments are on merits. They satisfy tests indicated in *Chandrashekhar, Karan Singh* and *City Improvement Trust Board*. They support the principle of parity in *Ali Mohammad Beigh* and *Krishan Kumar*, while remaining in line with the approach approved in *Trishala Jain*.

110. Accordingly, this Court places reliance upon these judgments instead of resting valuation only upon one post notification lease transaction or only upon escalation extending over sixteen years. Earlier judgments, particularly the judgment rendered regarding Village Bokadvira, therefore provide the safest basis for arriving at fair market value of the acquired lands involved in the present appeals.

f) How the observations in *Babibai Babu Patil* are required to be understood, without discarding the rate of Rs.1,725/- per square metre.

111. The next submission made by Mr. Patil learned Additional Government Pleader is based upon observations made by Supreme Court in *Babibai Babu Patil*. Since much emphasis has been placed on those observations, this Court thinks it necessary to examine them and understand what they really say. Learned Additional Government Pleader submitted that entire basis of market value of Rs.1,725/- per square metre begins from judgment of this Court in *State of Maharashtra v. Trimbak Joma Thakur* relating to Village Roadpali. According to the State, once Supreme Court expressed doubt regarding reasoning adopted in that judgment, particularly about deductions from lease transactions and developed commercial plots, then whole valuation process which later accepted the same amount also cannot survive. Submission is that if basis is doubtful, then structure standing upon it also cannot remain. Keeping this in mind, this Court examined observations made by Supreme Court. The Supreme Court observed that:

> *"the award cannot be said to be binding*" and observed that "*whether necessary deductions for development and smallness etc. have made while determination of amount was made in the said award, has also to be considered by the High Court.*" Court observed that "*The deduction is required to be made particularly to commercial/industrial purposes had been relied upon; one of which was with respect to grant of land on lease for 60 years, and other was for a weigh bridge. It was also required to be considered as to whether the value of those plots could have been taken into consideration only after deductions."*

112. These observations are important. The Supreme Court pointed out that question relating to deductions from commercial lease transactions required fresh consideration. Therefore, this Court cannot accept submission of claimants that observations made in *Babibai Patil* have no importance. They have importance. But enquiry cannot stop there. One more question also is also important. What did Supreme Court do after recording those observations? Did Their Lordships determine that correct market value should be lower than Rs.1,725/- per square metre? Answer is in the negative. Supreme Court did not substitute any different market value. Supreme Court did not hold that rate of Rs.1,725/- was impermissible. Supreme Court also did not declare that valuation fixed in Roadpali stood set aside. Instead, Their Lordships found that matter required fresh examination by High Court after considering points mentioned in the order. One order directing fresh consideration is different from another order fixing another market value. In first situation, issue still remains open. In second situation, issue comes to an end. In the present matter, Supreme Court adopted the first course. Therefore, this Court cannot read into *Babibai Patil* something which Supreme Court has not stated. This distinction is more important when viewed in light of settled principles governing land acquisition matters. Supreme Court in *Chimanlal Hargovinddas*, paragraph 3, held that compensation cannot be fixed mechanically but has to be determined afresh on basis of evidence produced before the Court. Paragraph 4(3) states:

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

113. Similarly, paragraph 4(16) holds that:

> *"Every case must be dealt with on its own fact pattern bearing in mind all these factors as a prudent purchaser of land in which position the judge must place himself."*

114. Therefore, even after remand, Court was required to undertake independent exercise. That is what later Benches of this Court proceeded to do. Learned counsel appearing for claimants rightly pointed out that after observations made in *Babibai Patil*. Later Benches of this Court again examined the issue independently. More importantly, those Benches were aware about *Babibai Patil*. By that time, observations made by Supreme Court had become part of legal position governing these acquisitions. Every Court dealing with later matters knew that question relating to deductions required careful examination. Therefore, it cannot be assumed that later judgments repeated earlier amount without application of mind. On the contrary, material available before this Court shows that later judgments examined the objections pointed out by Supreme Court. This Court finds considerable force in that submission. Judgment dated 26 October 2016 relating to Village Bokadvira was delivered after considering earlier line of authorities. Thereafter, judgment delivered by learned Single Judge concerning Village Padaghe came at a stage when observations in *Babibai Patil* were available and were relied upon by the State. Even then, learned Judge appreciated evidence and determined market value at Rs.1,725/- per square metre. This sequence of events shows that amount of Rs.1,725/- did not continue only because Roadpali judgment existed. But, it continued because later examination found that amount to be after appreciating available evidence. In other words, that amount again passed through one more stage of scrutiny. This Court is conscious that one judgment does not become correct merely because another judgment follows it. Still, where independent examination is undertaken, and same valuation is accepted, persuasive value of that determination is stronger.

115. The Supreme Court in *Chandrashekhar*, paragraphs 25 and 26, that previous judgments may furnish basis for determining market value where surrounding facts and circumstances justify such reliance. Similarly, *Karan Singh,* paragraph 8, holds previous judgments as admissible once comparability is established. Therefore, when different Benches, after considering available evidence, continue to arrive at same valuation, such consistency cannot be treated as mechanical repetition.

116. Learned Additional Government Pleader also submitted that observations made in *Babibai Patil* destroy evidentiary value of lease transactions relied upon in earlier judgments. This Court has, while discussing transaction, accepted that commercial lease transactions cannot be mechanically adopted. Supreme Court in *Lal Chand*, paragraphs 23 to 27, held that it is "*not safe or advisable to rely upon the allotment rates/auction rates*" of developed authority plots while determining value of neighbouring undeveloped lands. Similarly, *Kapil Mehra*, paragraphs 21, 23 and 24, holds that leasehold property and freehold property are conceptually different and suitable adjustments become necessary before making comparison. Therefore, criticism regarding deductions has substance. But present judgment is not based only upon those lease transactions. Present judgment rests upon later judgments concerning same acquisition after appreciation of evidence available in those matters. Therefore, even if lease transactions require less dependence that circumstance does not extinguish evidentiary value of later judgments which considered relevant circumstances together.

117. This Court also finds support for this approach from *Trishala Jain*. Paragraph 59, while quoting *Charan Dass*, states:

> *"in the absence of sale deeds, the judgments and awards passed in respect of acquisition of lands, made in the same village and/or neighbouring villages can be accepted as valid piece of evidence and provide a sound basis to work out the market value…"*

118. Further, paragraph 64 explains that principle of guesswork is intended "*to bridge the gap between the calculated compensation and the actual compensation that the claimants may be entitled to* *receive as per the facts of a given case.*"

119. Therefore, Court has to examine entire evidence together.

120. One more aspect also deserves notice. Supreme Court in *Bhule Ram*, paragraph 16, summarised legal position by observing:

> *"A guesswork, though allowed, is permissible only to a limited extent."*

121. It is observed that market value must be determined "*taking into consideration the existing use of the land, geographical situation/location of the land along with the advantages/disadvantages*" and that "*the court should not take into consideration the use for which the land is sought to be acquired.*" These observations show that valuation is combined exercise. No single circumstance, whether favourable or unfavourable, can decide the final conclusion. Court has to weigh every relevant circumstance together. That is the exercise undertaken by this Court. Thus, this Court accepts observations made in *Babibai Patil* as a reminder that deductions from developed lease transactions require careful scrutiny. In fact, those observations have influenced this Court while refusing to accept lease transaction as the principal basis for valuation. However, those observations cannot be carried to mean that every later judgment adopting rate of Rs.1,725/- per square metre loses its evidentiary value. It would ignore independent examination undertaken by later Benches after observations made in *Babibai Patil* had become available.

122. Seen from this angle, this Court finds that *Babibai Patil* one of the basis of reasoning adopted in original Roadpali judgment, namely treatment of lease transactions and deductions. It did not decide that Rs.1,725/- could never represent fair market value. More importantly, later judgments concerning Village Bokadvira and neighbouring villages show that even after considering observations by Supreme Court, market value of Rs.1,725/- per square metre again came to be accepted after appreciation of available evidence. For these reasons, while observations made in *Babibai Patil* deserve respect, this Court is unable to hold that those observations require rejection of market value of Rs.1,725/- per square metre, which thereafter underwent fresh examination.

g) Arriving at the final market value:

123. The Supreme Court in *Chimanlal Hargovinddas,* particularly paragraph 4(3), observed:

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

124. Paragraph 4(16) holds that:

> *"Every case must be dealt with on its own fact pattern bearing in mind all these factors as a prudent purchaser of land in which position the judge must place himself."*

125. These observations require this Court that this Court has to place in position of "*a prudent purchaser"* and then see what such purchaser would pay on 24 September 1986. This Court considers another principle stated in *Makhan Singh*, paragraph 4. Supreme Court observed:

"The Act is neither a tool in the hands of the Government to deprive any person his land without payment of its market value... nor a bonanza to a land owner whose land has been acquired, permitting him to get a fanciful inflated price."

126. It is observed:

"It is the bounden duty of the court while ascertaining compensation to see that it is just, not merely to the individual whose property is taken, but to the public which is to pay for it."

127. These observations show the balance which this Court has to keep while deciding compensation. Court cannot fully go on side of acquiring authority. Court also cannot fully go on side of claimants. Keeping these principles in mind, this Court considers evidence supporting the State.

128. Learned Additional Government Pleader has successfully established several facts during cross-examination. They are supported by admissions given by claimant and also by claimant's own valuer. Claimant admitted that in the year 1986 there was no primary school or secondary school in Village Bokadvira. There was no Primary Health Centre. There was no JNPT Port. Village was not falling within Uran Nagar Parishad. There was no organised market. Even till the year 2019 village continued under Gram Panchayat. Similarly, valuer admitted that acquired lands were agricultural lands. She admitted that village was situated about 23 to 25 kilometres away from Bombay Pune National Highway. She admitted that JNPT became operational only in the year 1990. She admitted that there was no MIDC in the village in the year 1986 and nearest industrial area was Taloja. She also admitted that there was no post office in the village during the relevant period. This Court has held that these admissions are genuine and need to be accepted. Nothing has been shown before this Court for rejecting those admissions. Therefore, State has established that Village Bokadvira was an agricultural village and many civic facilities were not available on the date of acquisition. This Court therefore gives weight to these facts. Court cannot ignore them only because they support the acquiring body. If that is done, it will amount to ignoring proved evidence. That would be contrary to paragraph 4(4) of *Chimanlal*, where Supreme Court observed that even evidence produced by opposite party can be taken into consideration while determining market value. State has also successfully shown several legal principles. Judgments in *Lal Chand, Kapil Mehra, ONGC, Kanwar Singh, Hookiyar Singh* and *Bhule Ram* caution Courts against mechanically relying upon lease transactions, developed authority plots, judgments relating to distant villages or imagined future development. This Court has accepted every one of these principles. In fact, because of these authorities, this Court has declined to accept valuation of Rs.2,500/- per square metre claimed by the claimants.

129. Claimants relied upon lease transaction. That transaction took place after notification under Section 4. It concerns commercial lease granted by CIDCO. It is not one sale of agricultural land. Supreme Court in *Lal Chand*, paragraph 27, observed:

> *"it is not safe or advisable to rely upon the allotment rates/auction rates... in determining the market value of the*

adjoining undeveloped freehold lands.”

130. Similarly, *Kapil Mehra,* paragraphs 21 to 24, holds that leasehold property and freehold property are conceptually different and suitable adjustments become necessary before comparison. Therefore, State has rightly pointed out weakness in treating lease transaction as the main basis. This Court has accepted that submission.

131. Likewise, caution given in *Babibai Babu Patil* regarding deductions from lease transactions has also been accepted by this Court. Thus, on many legal issues, submissions made by learned Additional Government Pleader need to be accepted. But Court must now see what material is available on the other side of the balance. On that side stands one circumstance which, In my opinion, carries high evidentiary value. That circumstance is repeated judgment fixing market value at Rs.1,725/- per square metre. This judgment is not found only in one isolated judgment. It appears again and again in history relating to this acquisition. More importantly, one of those judgments concerns Village Bokadvira. Court is considering one earlier judgment relating to the same village.

132. Supreme Court in *Trishala Jain,* paragraph 59, while approving observations in *Charan Dass,* held that:

> "*the judgments and awards passed in respect of acquisition of lands, made in the same village and/or neighbouring villages can be accepted as valid piece of evidence and provide a sound basis to work out the market value…*"

133. Again, paragraph 63 observes that compensation may be determined on basis of "*awards and judgments relating to the similar or comparable lands.*" Therefore, approach adopted by this Court receives full support from settled law laid down by Supreme Court. This Court also cannot ignore the long history through which amount of Rs.1,725/- has passed. That rate was questioned. It was challenged. Observations were made in *Babibai Patil*. Matter again came under examination. Later Benches again considered the same controversy. Even learned Single Judge deciding Padaghe matter after observations in *Babibai Patil* again reached the same valuation. Therefore, this amount has not remained only because nobody questioned it. It has continued even after challenge. That circumstance gives more persuasive value to it.

134. The learned Additional Government Pleader has relied upon the fact that Village Bokadvira did not have schools, hospitals, industries and other urban civic facilities. According to the learned Additional Government Pleader, these circumstances should persuade this Court to depart from the earlier rate of Rs.1,725/- per square metre. It is submitted that a village which did not have such basic facilities in the year 1986 could not have been treated in the same manner as villages which were better situated and had better facilities. At the first look, there appears to be some substance in the submission. The actual condition of the land and the facilities available in the village are relevant for deciding the market value. A willing purchaser in the year 1986 would consider these matters before deciding the price. But the difficulty is that these circumstances cannot now be treated as a reason for reducing the earlier rate, because these circumstances were before the earlier Courts. The absence of schools, hospitals, industries, and other civic facilities in Bokadvira was not a fact which has come before this Court for the first time. The earlier proceedings concerning Bokadvira show that the geographical position of the village and the development around it were considered. The earlier judgment noticed the distance from Uran City, Bhendkal Industrial Estate, Ranwad Industrial Estate, Mora Industrial Estate, JNPT, State Highway No.41, National Highway 4B and the Uran-Panvel railway line. The proximity of ONGC and JNPT activities and the development potential arising from the location of the lands were also taken into consideration. At the same time, the disadvantages of the lands were also noticed. The lands were agricultural. They were being used for paddy and ruckus and were dependent upon the monsoon. Therefore, the earlier Court was not treating Bokadvira as though it was a developed urban locality. The earlier Bokadvira judgment further shows that the Reference Court had considered the distances stated by the valuer and the location of the acquired lands. The lands were near the Panvel-Uran Road and the Panvel-Uran railway track, though the railway station was not nearby. The distance from the State Highway and National Highway and the activities of ONGC and JNPT were also considered. The earlier Court was conscious that some industrial activities had not commenced in the year 1986. Therefore, it did not treat the later development as if it had taken place on the date of notification. At the same time, the possibility of increase in value because of future development was also considered as one of the relevant circumstances. It is, therefore, difficult to accept the submission of the learned Additional Government Pleader that the earlier Court had not considered the absence of civic facilities. The earlier judgment considered both sides of the matter. It considered the advantages arising from the location and surrounding development. It also considered the disadvantages arising from the agricultural nature of the lands and the absence of facilities. After considering these circumstances, the earlier Court fixed the market value of the Bokadvira lands at Rs.1,725/- per square metre.

135. The question is different. It is not whether the absence of schools, hospitals, industries, and other civic facilities is relevant. It is relevant. The question is whether anything new has been shown in the present appeals which was not before the earlier Court and which would justify this Court in reducing the rate determined. If the same circumstance which was before the earlier Court is again relied upon, that circumstance by would not be to reach a different conclusion. The earlier Court was also required to consider the lands as they existed on the relevant date. If that Court, after considering the evidence, found that the absence of facilities had to be considered along with the location, surrounding development, planning status and future potential of the lands, then a later Court would require some reason before taking a different view.

136. This does not mean that an earlier judgment has to be followed without examination. If it is shown that the earlier Court proceeded on an incorrect factual basis, failed to consider important evidence, applied an incorrect principle, or if some important circumstance is now shown which was not available before the earlier Court, the earlier determination can be reconsidered. The Court has to independently examine the matter. At the same time, where the lands form part of the same larger acquisition and are situated in the same village or in similarly situated villages, consistency with earlier judgments is also an important circumstance.

137. Upon this consideration, this Court is unable to hold that the objection raised by the learned Additional Government Pleader is sufficient to depart from the rate of Rs.1,725/- per square metre.

138. This Court also receives support in this regard from recent judgment of Supreme Court in *Krishan Kumar* . Paragraph 18(a) reiterates that:

> *“lands with similar locational and developmental potential must be compensated equitably unless clear, objective distinctions justify otherwise.”*

139. Further, paragraph 18(d) holds that:

> *“Compensation cannot be assessed in a mechanical or formulaic manner but must be guided by considerations of equality, equity, and justice.”*

140. Applying these principles, this Court finds that although Bokadvira lacked several civic amenities in the year 1986, no evidence has been produced showing such a fundamental difference in developmental potential from neighbouring villages forming part of the same New Bombay Project as would justify departure from the accepted rate. At the same time, this Court also cannot accept submission of claimants that market value should be increased to Rs.2,500/- per square metre.

141. Reasons for rejecting that the valuation have been discussed in detail. Lease transaction is not sufficiently comparable. Its post notification nature creates one difficulty. Commercial nature of lease granted by CIDCO creates another difficulty. Conversion made by valuer, though attempted, rests upon basis which this Court has found not sufficiently dependable. Supreme Court in Bhule Ram, paragraph 16, has held that:

> "*A guesswork, though allowed, is permissible only to a limited extent.*"

142. Similarly, paragraph 65 of *Trishala Jain* states that discretion while applying guesstimation

> "*has to be reasonable and should have a connection to the data on record.*"

143. Therefore, this Court cannot accept enhanced amount only because valuer has reached that amount. Material forming basis of such valuation must inspire confidence. In the present matter, it does not. This Court has also kept in mind observations in *P. Ram Reddy*, paragraphs 15 and 16. Supreme Court observed that merely because evidence has not been effectively challenged, Court is not bound to accept it. Court must test such evidence "*on the basis of probabilities.*" Their Lordships warned that blindly accepting such evidence "*would amount to doling out public money to the claimants far in excess of their legitimate entitlement.*" Accordingly, although expert evidence of claimants has remained unshaken in some respects, this Court has tested that evidence with surrounding circumstances and accepted it only to the extent it appears probable and reliable.

144. Thus, after considering all circumstances together, overall balance is clear. Evidence produced by the State establishes that Village Bokadvira remained agricultural and underdeveloped in the year 1986. Evidence produced by claimants establishes that village still formed part of integrated New Bombay Project and possessed substantial developmental potential shared with neighbouring villages covered by the same acquisition. Lease transaction relied upon by claimants is not to justify Rs.2,500/- per square metre. Escalation method suggested by the State is also not the safest guide because of long interval and changing pattern of development. Previous judgments concerning the same acquisition, particularly those relating to Village Bokadvira, continue to remain the most dependable material available before this Court. Therefore, this Court finds that neither of the amounts suggested by the parties gives the correct answer.

145. Compensation awarded by the Reference Court at Rs.1,124/- per square metre does not reflect later judgments relating to the same acquisition and similarly situated villages. On the other hand, claimants' demand of Rs.2,500/- per square metre goes beyond what available evidence permits this Court to award. Between these two extremes amount of Rs.1,725/- per square metre. It satisfies requirement laid down in *Food Corporation of India, Chimanlal, Trishala Jain* and *Bhule Ram* that compensation under the Land Acquisition Act must remain reasonable and just, both for landowner whose property has been compulsorily acquired and also for public exchequer which has to bear that burden.

146. Accordingly, after overall appreciation of oral evidence, documentary evidence, expert opinion, earlier judgments and settled principles laid down by Supreme Court, this Court is satisfied that fair market value of acquired lands on the date of publication of notification under Section 4 of the Land Acquisition Act deserves to be fixed at Rs.1,725/- (Rupees One Thousand Seven Hundred Twenty Five only) per square metre. According to the considered opinion of this Court, this amount comes nearest to the true market value emerging from material available on record and best fulfils object of awarding just compensation under the Land Acquisition Act, 1894.

h) Re-appreciation of the submissions in First Appeal No.706 of 2017, the Cross Objections and First Appeal No.1324 of 2017:

147. Having considered the evidence, the awards, and the issue of market value in the earlier parts, this Court now considers together the main submissions made in First Appeal No.706 of 2017, the Cross Objections filed by the claimants and First Appeal No.1324 of 2017. Some of these submissions have been considered while appreciating the evidence. However, the material submissions made on behalf of all the parties are dealt with before the appeals are decided.

148. The parties have made submissions regarding the value and effect of the lease transactions, the effect of the New Bombay Project, the comparison of Bokadvira with the neighbouring villages, the earlier judgments and the 12.5% developed plot scheme. These submissions therefore require consideration in their proper background.

149. The learned Additional Government Pleader appearing in First Appeal No.706 of 2017 submitted that Village Bokadvira was an agricultural and underdeveloped village situated outside the municipal limits of Uran. It was submitted that, on the date of publication of the notification under Section 4, actual development had not taken place in the village. According to the learned Additional Government Pleader, the Development Plan only showed future proposals and such proposals by themselves could not increase the market value of the lands. It was also submitted that the Dronagiri Node was developed subsequently and that the different nodes of Navi Mumbai were developed at different points of time.

150. The oral evidence shows that Bokadvira had not become a developed urban area on the relevant date. The lands continued to be agricultural. Several civic facilities were also not available in the village. These circumstances are relevant while deciding the market value. However, from this it cannot be said that the lands had no development potential. The documentary evidence shows that planning for the New Bombay Project had been undertaken before publication of the Section 4 notification. Bokadvira was included in the New Town. CIDCO had been appointed as the New Town Development Authority. The acquisition of the lands was also connected with the implementation of this larger statutory development scheme. The award passed by the Land Acquisition Officer is also important in this regard. It records that the village formed part of the New Bombay Project. It further records that sale transactions were not available because the lands had remained under acquisition since the year 1970. These records make it difficult to accept the submission that the development potential relied upon by the claimants was only a future possibility. There was a planning arrangement in existence before the relevant date.

151. The learned Additional Government Pleader next submitted that the expert valuer had inspected the lands only in the year 2003 and his opinion could not properly show the market value prevailing in the year 1986. Reliance was placed upon the decision in *Dinkar Balu Bhopi*. It was submitted that a valuation made after such a long period should be given lesser weight.

152. There is substance in this submission to some extent. An expert opinion prepared several years after the relevant date cannot be accepted without careful examination. The Court has to see whether the expert has tried to determine the value as it existed on the relevant date or whether later development has affected the opinion. But the other part of the matter also has to be considered. The valuation report was not based only on the physical inspection made in the year 2003. The report also considered historical documents, planning records, maps and other material relating to the location and position of the lands with reference to the relevant period. The respondents have not produced another expert valuation to show that the basic assumptions made by the valuer were wrong. They have also not shown any fundamental error in the factual material relied upon by the expert. Therefore, the fact that the inspection was made later affects the evidentiary value which can be given to the valuation report. It does not make the entire report useless. The report continues to be relevant evidence to some extent. However, its final figure cannot be accepted merely because it has been stated by an expert.

153. The respondents have next submitted that the earlier judgments fixing the rate at Rs.1,725/- per square metre for Roadpali, Wadghar, Padaghe and Bokadvira cannot be relied upon. It has been submitted that the Supreme Court in *Babibai Babu Patil* had directed reconsideration of certain matters and had also made observations regarding the Roadpali judgment. According to the respondents, the judgments which followed Roadpali, therefore, cannot continue to be treated as a basis for determining the market value.

154. The earlier judgments have not been treated in this judgment as binding decisions which determine the market value of the lands in the present appeals. They have been considered as relevant material. Their factual background, the lands involved, the evidence considered and the reasons given by the earlier Courts have been examined along with the evidence available in the present proceedings. Therefore, even if some matters were required to be reconsidered pursuant to the observations of the Supreme Court, it cannot be said that every fact considered in those proceedings or every reason recorded therein has lost its relevance. A previous judgment of market value cannot be followed mechanically. At the same time, it cannot be said that such determination has no evidentiary value merely because it has been questioned or remanded for reconsideration. Its weight has to be decided after seeing the basis of that determination and whether its reasoning finds support from the material available in the present case. In the present case, this Court has independently considered the oral evidence, documentary evidence, planning documents, valuation report, lease transactions and the surrounding circumstances. Therefore, the rate of Rs.1,725/- per square metre is not being accepted merely because another Court had earlier adopted the same rate.

155. The learned Senior Counsel appearing for CIDCO in First Appeal No.1324 of 2017 principally submitted that the allotment of 12.5% developed plots is a benefit given to the landowners. According to the submission, this benefit has to be taken into consideration while deciding the market value payable under the Land Acquisition Act. It was further submitted that, although this point was not raised before the Reference Court, it is a pure question of law and therefore can be raised at the appellate stage.

156. The material on record shows that the 12.5% developed plot scheme was a policy introduced for planned development and for dealing with the consequences of acquisition under the New Bombay Project. The allotment of developed plots was governed by the relevant policy and Government Resolutions. The material further shows that such allotment was made on payment of the prescribed lease premium. The compensation payable under Section 23 of the Land Acquisition Act is compensation for compulsory acquisition of the proprietary rights in the acquired property. The 12.5% developed plot scheme has a separate source.

It arises from an independent policy and operates according to its own terms. There is no material before this Court showing any statutory provision which permits the benefit under that separate scheme to be deducted from the compensation payable under Section 23. A benefit which comes from an independent executive scheme cannot be treated as forming part of the statutory compensation unless the Act or policy provides for such adjustment. No such provision has been shown before this Court. The submission of CIDCO is therefore rejected.

157. The claimants, in support of their Cross Objections and First Appeal No.1324 of 2017, have submitted that the compensation should be enhanced to Rs.2,000/- per square metre. According to the claimants, Bokadvira had advantages comparable with Roadpali and, in some respects, even greater advantages. Reliance has been placed upon the proximity of Uran Municipality, the Uran-Panvel Highway, the railway line, ONGC, Bhendkhal Industrial Estate, JNPT, Mora and Karanja Jetties, the approved Development Plan and the planning undertaken under the New Bombay Project. The evidence does establish several of these advantages. The historical material shows the existence of transport facilities and industrial establishments in the surrounding area. It also shows the proximity of urban facilities in the Uran area and the possibility of non-agricultural use. The approved Development Plan also shows residential and industrial zoning and proposals for future connectivity. Therefore, this Court accepts that Bokadvira was not agricultural village having no development potential. It had important locational and planning advantages.

158. However, the further submission that these circumstances require enhancement of the rate beyond Rs.1,725/- per square metre cannot be accepted. The evidence also shows that the lands continued to be agricultural on the relevant date. Full development had not taken place. Several civic facilities were absent. Further adjustment is also required when the value of developed commercial or leasehold properties is compared with large agricultural lands acquired compulsorily. The Court therefore has to consider both sides of the evidence. The development potential cannot be ignored. But the actual agricultural condition of the lands and the absence of complete development also cannot be ignored. The claimants have further relied upon the long history of acquisition beginning from the year 1970. It is submitted that the absence of private sale transactions cannot be used against the landowners because such absence was caused by the Government acquisition proceedings and the restrictions operating over the lands.

159. The Land Acquisition Officer recorded that sale transactions were not available because the lands had remained under acquisition since 1970. In such circumstances, the absence of sale transactions has to be understood in its proper background. It would not be proper to treat the absence of sale transactions as showing absence of substantial value when the record shows that the long acquisition proceedings were the reasons why such transactions were not available. The Court was therefore justified in considering other material available on record. This includes the earlier judgments, planning documents, expert evidence and lease transactions. Each of these materials has to be considered with caution.

160. The claimants have submitted that the State did not produce an independent valuation expert or alternative valuation showing that Bokadvira was worth less than the rate claimed by them.

161. The respondents have challenged the evidence produced by the claimants. They have not placed before the Court an independent valuation exercise which would give basis for adopting a lower rate. This does not mean that the burden of proving market value shifts upon the respondents. That burden continues to remain upon the claimants. But where the claimants have produced oral evidence, documentary evidence and expert evidence, and the respondents have not produced alternative valuation, the Court has to consider the evidence which is available. It cannot assume that a lower value must be correct merely because the evidence produced by the claimants can be criticised. The Court also finds no sufficient basis to hold that the evidence produced by the claimants is false.

162. Upon considering the submissions in First Appeal No.706 of 2017, the Cross Objections and First Appeal No.1324 of 2017 together, this Court records the following conclusions. The respondents are correct in pointing out that Bokadvira was agricultural and had not become fully developed on the relevant date. They are also correct that the valuation report and lease transactions relating to later periods require caution. The earlier judgments also cannot be followed mechanically. At the same time, the claimants have established that Bokadvira had development potential. The planning under the New Bombay Project was not merely an unsupported expectation. The long acquisition history explains why contemporaneous private sale transactions were not available. The location of the village and its connection with the surrounding industrial, transport and port development are also relevant circumstances. CIDCO has not established any sufficient legal basis for treating the 12.5% developed plot scheme as an amount which must be deducted from the statutory compensation payable under the Land Acquisition Act. This Court finds that neither the submission of the respondents for reducing the valuation nor the submission of the claimants for enhancement to Rs.2,000/- per square metre can be accepted merely on the basis of the particular circumstances relied upon by them.

163. On such overall consideration, and for the reasons recorded throughout the preceding parts of this judgment, this Court finds no sufficient ground to interfere with the rate of Rs.1,725/- per square metre on either of the grounds urged by the respective parties.

164. In view of the foregoing discussion and for the reasons recorded hereinabove, the following order is passed:

i) First Appeal Nos.1983 and 1987 of 2025 filed by the State is dismissed;

ii) First Appeal No.1324 and 706 of 2017, 207 of 2022, & 798 of 2018 filed by the State is dismissed;

iii) The Cross Objections filed by the respective claimants are partly allowed;

iv) The judgment and award passed by the Reference Court is modified to the extent that the market value of the acquired lands situated at Village Bokadvira, acquired pursuant to the notification dated 24 September 1986, shall be determined at the rate of Rs.1,725/- per square metre, in place of Rs.1,124/- per square metre determined by the Reference Court;

v) Accordingly, the compensation payable to the respective claimants in respect of their acquired lands shall be recalculated at the rate of Rs.1,725/- per square metre;

vi) The claimants shall be entitled to solatium, additional amount and interest, as permissible under the applicable provisions of the Land Acquisition Act, 1894, and in accordance with the directions contained in the judgment and award of the Reference Court, on the enhanced compensation determined on the basis of the market value of Rs.1,725/- per square metre;

vii) The amount, if any, already deposited or paid to the claimants pursuant to the judgment and award of the Reference Court shall be duly adjusted while preparing the final computation;

viii) An authenticated copy of this order shall be furnished to the Special Land Acquisition Officer (SLAO) within a period of two weeks from the date of this order.

ix) The SLAO shall, within a period of three weeks from the date of receipt of the authenticated copy of this order, prepare and submit to the Reference Court the detailed calculations of the amount payable to each claimant in terms of clause (v) above, after giving due effect to the amounts already paid or deposited, together with the solatium, additional amount and interest payable in accordance with law;

x) Upon receipt of the calculations from the SLAO, the Reference Court shall examine and decide the same within a period of four weeks from the date of receipt thereof;

xi) After the Reference Court decides the calculations, the enhanced amount found payable to the respective claimants shall be released within a period of twelve weeks from the date of such decision, in accordance with law;

xii) Any bank guarantee furnished by the claimants in connection with the proceedings shall, upon verification and subject to there being no subsisting order requiring continuation thereof, be released and returned to the concerned claimants in accordance with law;

xiii) In view of the facts and circumstances of the case, the parties shall bear their own costs;

xiv) The appeals and Cross Objections stand disposed of in the above terms.

xv) All pending applications, if any, stand disposed of accordingly.

(AMIT BORKAR, J.)