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SLP(C)No. 19386 OF 1999
ITEM No.204

Court No. 6

SECTION XIIA
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.19386/1999

(From the judgement and order dated 22/07/1999 in AN 1817/98
of The HIGH COURT OF A.P AT HYDRABAD)

D. MALLAIAH

Petitioner (s)

VERSUS

UNION OF INDIA & ORS.
( For Final Disposal )

Respondent (s)

With SLP(C)No.5016-5026/2000-(With appln.(s) for substitution of
legal representatives of deceased petitioners)
(For final disposal)

Date : 11/05/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.P. MISRA
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s) Mr. D. Bharat Kumar, Adv.
Mr. K. Maruthi Rao, Adv.
Mr. D. Mahesh Babu, Adv.

For Respondent (s) Mr. Mukul Rohatgi, ASG
Ms. Anita Verma, Adv. for
Mrs Anil Katiyar,Adv.

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J
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Substitution allowed.
Leave granted
The appeals are allowed in terms of the signed order.
Costs on the parties.

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Sarita (V.P. Tyagi)@@
AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA
Court Master@@
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(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3922 OF 2001@@  
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(Arising out of S.L.P.(Civil)No.19386 of 1999)

D. MALLAIAH . . . APPELLANT

VERSUS

UNION OF INDIA & ORS. . . RESPONDENTS

WITH C.A.Nos.3923-3933/2001 @ SLP(C)Nos.5016-5026/2000

O R D E R@@  
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Leave granted.  
Heard learned counsel for the parties.  
This Court on 10th January, 2000 passed the  
following Order :

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"Notice may be issued for final disposal.  
The notice will require the respondents to  
state why the decree of the Reference Court  
should not be sustained by relying upon Order  
41 Rule 22 of the Code of Civil Procedure."

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After notice, we heard learned counsel for the  
parties. Learned counsel for the appellant relies on  
the case of Ravinder Kumar Sharma -Vs.- State of Assam &@@  
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Ors. (1999) 7 SCC 435. This case squarely covers the@@  
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point raised on behalf of the appellants.

In view of this, the High Court was not right in  
not permitting the appellant to raise the point, in view  
of Order 41 Rule 22. The only point remains in respect  
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of rate of quantum fixed. The High Court reduced the  
amount @Rs.80/- pr sq.yd. from Rs.86/- per sq.yd. with  
deduction of 40% towards developmental charges. There  
was no material for the High Court to reduce this. The  
High Court itself records that in cases of doubling the  
railway line, this Court consistently gave a deduction  
between 10% and 15%.

We feel, on the facts of the present case and the  
findings recorded by the High Court, it is appropriate  
that the quantum as fixed by the Referring Court, i.e.,  
at the rate of Rs.86/- per sq.yd. is confirmed subject

to the deduction of only 15% towards development charges.

With the aforesaid declaration the present appeals are allowed. Costs on the parties.

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.....J  
(A.P. MISRA)

New Delhi,  
May 11, 2001.

.....J  
(B.N. AGRAWAL)