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C.A.No. 7481-7487 OF 1997
ITEM No.101 (Part-Heard)Court No.6

SECTION IVA

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

CIVIL APPEAL NOS.7481-7487/1997

UNIVERSITY OF AGRL. SCIENCES

Appellant (s)

VERSUS

THE ASSTT. COMMISSIONER & ORS.

Respondent (s)

(With appln.(s) for substitution of L.Rs of the deceased respondent
and vacating stay and with office report)

With C.A. No.7488/1997,

C.A. Nos.5321-5323/1999 (With office report),

with

C.A. Nos.62-65/2000 (With office report),

with

C.A. No.2336/2001,

with

SLP(C) No.23230-23244/2002

(With appln.(s) for c/delay in filing SLP and with prayer for interim relief and office report
)

(With I.A. Nos.9-10/2003: Application for substitution of L.Rs. of deceased R. No.2 in C.A. No
.7481/97 and R. No.2 in C.A. No.7486/1997)

(With I.A. Nos.11-17/2003: Application for vacating stay in C.A. Nos.7481-7487/1997)

Date : 10/12/2003 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA

HON'BLE MR. JUSTICE H.K. SEMA

For Appellant (s)/

Petitioner(s)

Mr. M.P. Eshwarappa, Sr. Adv.

Mr.T.L.V. Iyer, Sr. Adv.

Mr. Rajesh Mahale, Adv.

Mr. R.C. Kohli, Adv.

Mr. Ranjit Kumar, Sr. Adv.

Ms. Binu Tamta, Adv.

For Respondent (s)Ms. Kiran Suri, Adv.

Mr. Sanjay R. Hegde, Adv.

Mr. Rajesh Mahale, Adv.

Mr. Ranjit Kumar, Sr. Adv.

Ms. Binu Tamta, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard parties.

C.A. Nos.7481-7487/97, 7488/97, 5321-5323/99 and

C.A. Nos.9751-9765 of 2003
(Arising out of SLP (C) Nos.23230-23244/2002)

IA Nos.9-10/2003, applications for substitution are allowed.
Delay condoned.

Leave granted.

These appeals stand dismissed in terms of the signed order. There will be no order as to costs.

C.A. No.2336 of 2001

The appeal stands dismissed in terms of the signed order.

C.A. Nos.62-65 of 2000

The appeals stand dismissed in terms of the signed order. There will be no order as to costs.

(K.K. Chawla)
Court Master

(Jasbir Singh)
Court Master

[Three separate signed orders in C.A. Nos.7481-7487/97, 7488/97, 5321-5323/99, C.A. Nos.9751-9765 of 2003

(Arising out of SLP (C) Nos.23230-23244/2002);

C.A. Nos.62-65/2000; and

2336/2001 are placed on the files.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.7481-7487 OF 1997

UNIVERSITY OF AGRL. SCIENCES

Appellant (s)

VERSUS

THE ASSTT. COMMISSIONER & ORS.

Respondent (s)

WITH

CIVIL APPEAL NO.7488 OF 1997

WITH

CIVIL APPEAL Nos.5321-5323 OF 1999

AND

CIVIL APPEAL NOS.9751-9765 OF 2003
(ARISING OUT OF SLP (CIVIL) NOS.23230-23244 of 2002)

O R D E R

IA Nos.9-10/2003, applications for substitution are allowed.
Delay condoned.

Leave granted.

All these matters can be disposed of by this common judgment. All of them relate to an acquisition which commenced with a Section 4 Notification issued on 15th January, 1975. The Land Acquisition Officer awarded a sum of Rs.2,500/- per acre on the basis that these lands were merely agricultural lands and that there was no development potential. The claimants filed references under Section 18. The Reference Court appointed a Court Commissioner to value the land.

The claimants, the State and appellants herein (on whose behalf land was being acquired) all led evidence. The Reference Court thus had evidence of the Court Commissioner, sale instances and awards in other land acquisition cases. After considering all the evidence, the Reference Court came to the conclusion that none of the sale instances were relevant. It found one award namely, Ex.P.1 to be relevant as it was based on a sale instance of a land in the vicinity of the acquired land. But the Reference Court took note of the fact that an appeal against that award was pending in the High Court. The Reference Court took into consideration the valuation given by Court Commissioner. It also took into consideration the evidence of all the witnesses, both on behalf of the claimants as well as the State and the appellants herein. The evidence of all the witnesses established that there was high potential for non-agricultural development. The Reference Court considered the fact that the Court Commissioner had valued the land on the date of its inspection at Rs.20,000/- to Rs.25,000/- per guntha and the appellants own witness DW.3 admitted in cross-examination that the value of these lands was 25,000/- to 30,000/- per guntha. The Reference Court took note of the fact that the Court Commissioner had held that development cost had to be deducted from this valuation and that further deduction had to be made considering the fact that the notification was of the year 1975 and that therefore the value according to the Court Commissioner would be Rs.5,000/- to Rs.6,300/- per guntha. The Reference Court then made further deductions obviously because the acquisition was of a large area of land and awarded compensation at the rate of Rs.75,000/- per acre which comes to approximately Rs.1800/- per guntha.

The appellants filed an appeal in the High Court. The High Court proceeds to reject all the evidence on record pertaining to valuation. The High Court however concludes on basis of evidence that the land had high potential for non-agricultural development. Then without assigning any reason whatsoever, the High Court concludes that Rs.75,000/- per acre is not just and that the price should be Rs.50,000/- per acre.

In our view, it would be very difficult to sustain the cryptic and unreasoned judgment of the High Court. We would have been inclined to restore the well reasoned judgment of the Reference Court. But none of the claimants have filed any appeal to this Court. Therefore, the amount awarded by the High Court is not being changed by this Court even though this Court find the order of the High Court is without any reason.

We are in agreement with the submission that the potentiality of the land has to be seen as on the date of the Section 4 Notification i.e. on 15th January, 1975. It was further submitted, on the basis of the authority in the case of Kanwar Singh v. Union of India reported in AIR 1999 SC 317, that reliance cannot be placed on an award in respect of some other land in some other villages. There can be no dispute on that proposition either. We, however, find that neither the Reference Court nor the High Court has placed any reliance on any award in respect of some other lands. The Reference Court has merely noticed that the other award was based on a sale instance of a land adjoining the acquired land. But the Reference Court has been careful enough to state that as award was in appeal, it was not relying on that award. We, therefore, see no substance in any of these appeals. These appeals stand dismissed. There will be no order as to costs.

.....J.
(S.N. Variava)

.....J.
(H.K. Sema)
New Delhi;
December 10, 2003.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.62-65 OF 2000

THE REGISTRAR, UNIVERSITY OF AGRICULTURAL

VERSUS

BALANAGOUDA (DEAD) BY L.RS. & ORS.

Respondent (s)

O R D E R

These appeals are against the Judgment of the High Court dated 30th July, 1998.

Briefly stated the facts are as follows:-

On 8th April, 1976, Section 4 Notification was issued. An Award was passed wherein the compensation was fixed at Rs.20,000/- per acre. The claimants filed References. The Reference Court considered, a sale example which was marked as Ex. P.2 to be relevant. Under the sale example, the price was Rs.2080/- per guntha i.e. Rs.83,200/- per acre. However, relying upon a decision of the Division Bench of the Karnataka High Court wherein it is held as follows:-

"Having regard to the distance between Naryananpura and the acquired lands and the possibility that a developer may have to wait for some time to realise the fruits of development, we deem it fit to deduct further 12% from the net figure arrived at (after deducting the normal 53% from the retail price), to reach the market value of these lands. This deduction is permissible having regard to the depth of the lands under consideration, from the land sold under Ex.P.10 and the waiting period for the development to take place...."

The Reference Court thus made a deduction of 65%. The Reference Court fixed compensation at Rs.30,000/- per acre.

The Appellants filed no appeal to the High Court. The claimants, however, went to the High Court for enhancement of the compensation on the ground that the deduction of 65% was very high. Whilst the matter was pending in the High Court, the question whether deductions should be at 53% or 33% was referred to a Full Bench. The Full Bench by its decision in The Assistant Commissioner v. Kamalabai Kom Laxman Metri (reported in ILR 1997 KAR 2063) considered amongst others the decisions of this Court in Administrator General of West Bengal V. Collector, Varanasi [(1988) 2 SCC 150] wherein in para 12 it is held that this Court had in Sahib Singh Kalha V. Amritsar Improvement Trust [(1982) 1 SCC 419] laid down that development expenses can come upto 53%. The Full Bench notes that in Sahib Singh's case it is held that normal deduction is 20% but that development costs can range from 20% to 33% depending on the nature of land, its structure and stage of development. The Full Bench held, correctly, that in Administrator General of West Bengal's case there was a misreading of Sahib Singh's case. The Full Bench held that deduction should be @ 33%. That the deduction should normally be 1/3rd is reiterated by this Court in the decision in Kasturi & Ors. V. State of Haryana [(2003) 1 SCC 354].

The High Court relied upon the Judgment of the Full Bench and held that the deduction could not be 65% but could only be 33%. The High Court thus awarded Rs.55,744/- per acre.

It is urged that there cannot be any strait-jacket formula on what deductions is to be applied. It is urged that deduction may vary from case to case. There can be no dispute to this proposition. However as a general rule deduction would be 33-1/3%. If the State or the acquiring body claim higher deduction they must show why higher deduction should be granted.

It is next urged that the sale instance, which was relied upon, was admittedly in respect of a fully developed plot within the municipal limits. It was urged that the acquired lands were agricultural lands outside the municipal limits. It was submitted that, therefore, the deduction of 65% was correct. It was urged that the High Court was thus in error in deducting only 33% without giving any reasons whatsoever.

It must immediately be noticed that both the Reference Court and the High Court have proceeded on the basis that development costs have to be deducted. The Reference Court proceeds on the footing that the normal deduction for development cost would be 53% and to that 12% were to be added for the waiting period to realise the fruit of development. It is on this basis that the deduction of 65% is made. What the Reference Court and the High Court overlook is that in this case there was absolutely no question of making any deduction for development cost.

These were agricultural lands which were acquired for agricultural purposes. The Reference Court, in para 12 of its order, notes the contentions of the appellants (herein) that these were agricultural lands and that they were acquired for agricultural purposes. The High Court also notes in its Judgment that these lands are now being used for a nursery. Normally development costs are deducted towards costs of providing for roads, other amenities like water, electricity, buildings etc. Interest costs, for the time lag in development, is also taken into consideration in cases where lands were acquired for development purposes and it takes time to develop the land. The cases relied upon by the appellants namely Basavva & Ors. v. Spl. Lan

d Acquisition Officer & Ors. reported in (1996) 9 SCC 640, Hasanali Khanbhai & Sons & Ors. v. State of Gujarat reported in (1995) 5 SCC 422 and L.A.O. v. Nookala Rajamallu reported in 2003 (10) SCALE 307 are all cases where lands were acquired for the purposes of development either for an orphanage or for housing colonies or for industrial centres etc. In such cases development charges would have to be deducted. But in a case like the present, there can be no deduction for development cost as there are no development costs to be incurred. Thus there could have been no deduction on this count.

However, the fact still remains that the sale instance was in respect of a small piece of land which was fully developed land and in a municipal limits whereas these are agricultural lands outside municipal limits. Therefore, even though development cost may not be deducted there has to be deduction for largeness of the land and also for the fact that these are agricultural lands. In this view of the matter, we see no reason to interfere with the Judgment of the High Court deducting 33% even though it may have been deducted under a wrong head.

We, therefore, see no reason to interfere. The appeals stand dismissed. There will be no order as to costs.

.....J.
(S.N. Variava)

.....J.
(H.K. Sema)
New Delhi;
December 10, 2003.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL No.2336 OF 2001

YALLAPPA

Appellant (s)

VERSUS

THE ASSISTANT COMMISSIONER AND L.A.O.
DHARWAD & ANR.

Respondent (s)

O R D E R

This appeal is against the judgment of the High Court dated 22nd September, 1999. The appeal was dismissed on the ground that there was a delay of 779 days in preferring the appeal. The grounds given for condonation of delay were not accepted. The ground given for condonation of delay was that there was a paucity of funds. Admittedly the Appellant had received an amount of Rs.6,00,000/- under the award. There is no justification to say that this amount had to be distributed amongst all the family members and to be used for repayment of loan. All family members would have been interested in the Appeal. Therefore amounts required for an Appeal could have been first segregated. Loans could also have been repaid afterwards. In our view, there was enough money to file an Appeal. We, therefore, see no reason to interfere. The Appeal stands dismissed.

.....J.
(S.N. Variava)

.....J.
(H.K. Sema)
New Delhi;
December 10, 2003.