

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 4681-4682 OF 2007

ISMILE ABDUL GAFUR PATIL (D) TH.LRS.&ORS Appellant (s)

VERSUS

STATE OF MAHARASHTRA Respondent(s)

Date: 24/05/2012 These Appeals were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE DIPAK MISRA
(VACATION BENCH)

For Appellant(s) Ms. Manisha T.Karia,Adv.

For Respondent(s) Mr. Shankar Chillarge,Adv.
Ms. Asha Gopalan Nair,Adv.

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

In terms of the signed order, appeals
are allowed in part by restoring the award
passed by the Reference Court but needless to
emphasise that the appellants-claimants shall
be entitled to all the statutory benefits
including the interest on solatium, as per the
decision rendered by this Court in Gurpreet
Singh vs. Union of India (2006) 8 SCC 457
wherein this Court has also explained an
earlier judgment of this court in Sunder Vs.
Union of India (2001) 7 SCC 2001. Our
attention has also been drawn to the judgment
of this Court in Patel Joitaram Kalidas & Ors.
Vs. Spl. Land Acquisition Officer & Anr. (2007)
2 SCC 341 which is also on the same line.

The parties shall bear their respective
costs.

(O.P. Sharma) (M.S. Negi)
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Court Master Court Master
(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s).4681-4682 OF 2007

ISMILE ABDUL GAFUR PATIL (D) TH.LRS.&ORS Appellant (s)

VERSUS

STATE OF MAHARASHTRA Respondent(s)

O R D E R

The present appeals have been preferred against the judgment and decree passed by the High Court of Judicature at Bombay in First Appeal No.817/1991 and 870/1991.

The facts which are necessary to be stated that certain lands situated in village Taloja Pachnand, Taluka Panvel, District Raigad in the State of Maharashtra were acquired after following the due procedure under the Land Acquisition Act, 1894 (for brevity "the Act").

The Land Acquisition Collector passed an award at the rate of Rs.2/- and Rs.3/-per sq.mtr. for two different categories of land. On a petition being filed, a reference was made to the competent Court under Section 18 of the Act wherein the claim was put forth that the claimants were entitled to Rs.30/- per sq.mtr. of land.

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The Reference Court after taking the contemporaneous sale deeds and other documents and the oral evidence into consideration awarded the compensation at the rate of Rs.15/- Sq.Mtr.

Being dissatisfied with the award passed by the Reference Court, the State of Maharashtra preferred First Appeal No.870/1991 and the claimants also preferred First Appeal No.817/1991. It is worth noting that the claimants put forth a claim of Rs.40/- per Sq.Mtr.

The High Court disposed of both the appeal by a common judgment and eventually reduced the rate to Rs.8/- per Sq.Mtr. Thus, the appeal preferred by the State stood allowed in part and the claimants were directed to refund

the balance amount within a span of twelve weeks with interest of 6% per annum. As far as the appeal of the claimants are concerned, it was dismissed.

We have heard learned counsel for the parties and perused the judgment passed by the High Court and the award passed by the Reference Court. Bestowing our anxious consideration, we find that the High Court has proceeded on the ground that the Reference Court had committed illegality by taking into consideration certain sale deeds which were for smaller plots; that the market value has to be strictly considered on the date of notification; and that much emphasis could not have been led on the report of valuer. Various decisions were referred to, which need not be mentioned here.

The question that really emanate for consideration is whether the High Court was justified in reducing the quantum which had been determined by the Reference Court. On a scrutiny of the award passed by the Reference Court, it is quite vivid that it has considered the contemporaneous sale deeds which were sold in square meters. The Land Acquisition Collector had passed the award on the basis of the square meters and, in fact, the High Court has also followed the similar pattern. It is also to be noted that it is not a case where a large chunk of land belonging to a singular owner has been acquired but there are large number of claimants, and, therefore, all the authorities had computed on the basis of square meters, as the same could not have been really calculated on the base of large chunk of land. The Valuer's report was a piece of evidence to substantiate the claim that was advanced by the claimants but for unacceptable reasons, the same has been not taken into consideration. That apart, the Reference Court has considered the potentiality

of the land but the said aspect has been totally ignored by the High Court.

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In our considered opinion, the order passed by the Reference Court is totally justified and did not warrant any interference. However, as far as the claimants claim that the valuation should have been at the rate of Rs.40/- per sq.meter does not commend acceptance as no cogent material had been brought on record to arrive at such a figure. Thus, we accept the award passed by the Reference Court as far as the determination of quantum is concerned and dislodge the same which has been fixed by the High Court in the First Appeal.

In the ultimate analysis, the present appeals are allowed in part by restoring the award passed by the Reference Court but needless to emphasise that the appellants-claimants shall be entitled to all the statutory benefits including the interest on solatium, as per the decision rendered by this Court in Gurpreet Singh vs. Union of India (2006) 8 SCC 457 wherein this Court has also explained an earlier judgment of this court in Sunder Vs. Union of India (2001) 7 SCC 2001. Our attention has also been drawn to the judgment of this Court in Patel Joitaram Kalidas & Ors. Vs. Spl. Land Acquisition Officer & Anr. (2007) 2 SCC 341 which is also on the same line.

The parties shall bear their respective costs.

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.....J.
(Dr. B.S. CHAUHAN)

.....J.
(DIPAK MISRA)

New Delhi,
May 24, 2012