

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 4235-4236 OF 2004

GANAPATH RAO(DEAD) BY LR. Appellant (s)

VERSUS

STATE OF KARNATAKA & ANR. Respondent(s)

O R D E R

These appeals are directed against the judgment and order dated 21.9.2002 passed by the Division Bench of the Karnataka High Court dismissing the appeals filed by the appellants - claimants holding that the Reference Court was justified in fixing the valuation of land at Rs.21,000/- per acre after allowing the necessary deduction at 65%.

By issuing the preliminary Notification dated 7.12.1978 issued under Section 4(1) of the Land Acquisition Act (hereinafter referred to as the "Act"), a plot of land to an extent of 7 acres 23 guntas of land belonging to Shri Ganapath Rao and another plot to the total extent of 29 acres 14 guntas of land belonging to one Vijay Kumar were proposed to be acquired for public purpose, namely, for locating the Agricultural Produce Market Committee yard of Bhalki at Bhalki Town. The said Notification was followed by a Notification issued under Section 6 of the Act after

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which the Land Acquisition Officer made an Award and determined the market value of these lands at Rs.1887/- per acre, on the basis that they are all agricultural lands and are required to be valued on the basis of the yield.

Being aggrieved by the order passed by the Land Acquisition Officer, the claimant sought for a reference under Section 18 of the Act pursuant to which reference was

made. The Reference Court received evidence adduced by the parties and thereafter by the judgment and order dated 4.6.1996 fixed the valuation at Rs.21,000/- per acre after allowing necessary deduction at 65% towards development account.

Being aggrieved by the said judgment and order passed by the Reference Court, the appellants - claimants filed the appeals before the High Court which were also dismissed as stated hereinbefore. Hence, these appeals.

We have heard the learned counsel appearing for the parties who have taken us through the documents on record. We deem it necessary to mention at the very outset that in the present appeals, the appellant - claimants have pressed only one issue i.e. with regard to the deduction being made both by the Reference Court and the High Court to the extent of 65% towards development charges instead of the normal 33% deduction as is usually done in such matters of acquisition. There is no submission advanced on behalf of the appellants - claimants with regard to the enhancement of the market value as fixed by the Reference Court which was upheld by the High Court.

Therefore, the only issue that falls for our consideration is whether or not 65% deduction towards development charges made by the Reference Court and upheld by the High Court is justified in the facts and circumstances of the present case. As to what should be the proper and justified deduction towards development charges in a given case, there cannot be a uniform standard or principle laid down as such deduction is always dependent on the location of land, the quality of the land and also the potential value of the land. When we examine the aforesaid factors in the light of the record of these cases, we find that the acquired land is situated adjacent

to the Railway Station. There are also various oil mills and such other industrial units near the acquired land. There is no doubt that the acquired land is agricultural land but it has a high potential value being very ideally and well located, their being commercial establishments adjacent to the acquired land. Therefore, the land is suitable for being converted and used for the purposes of locating the Agricultural Produce Market Committee yard particularly because it is located adjacent to the Railway Station.

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We have considered the facts and circumstances of the case and various decisions of this Court where the percentage of deduction toward development charges accepted by this Court in the light of the facts of those cases varied from 20% to 65%. This is a very wide range and we have to apply the actual and relevant yardstick to determine the percentage of deduction to be made in the facts and circumstances of the present case. The land being situated near the Railway Station and is also being adjacent to some other commercial units, the land would have to be properly developed by filling up the land and providing other facilities and civic amenities and therefore the deduction which could be said to be appropriate towards development charges in the facts and circumstances of the present case is 40%.

In this connection, we may appropriately refer to a decision of this Court in Lal Chand versus Union of India and Another reported in (2009) 15 SCC 769 wherein also as against the deduction made by the Reference Court and affirmed by the High Court at 60%, this court held that appropriate deduction towards development charges should be 40%. In our opinion, the ratio to the said decision is fully applicable to the facts and the circumstances of the

present case and therefore, we direct that the deduction that should be made towards development charges would be 40% instead of 65%, which is higher standard percentage fixed by the Reference Court and upheld by the High Court. This order for deduction of 40% is being made keeping in view that some facilities like roads, water and electricity has to be provided. According to us there is no necessity of providing for facilities like the park, club house and such other facilities in the present case as it is going to be used as market yard and not residential area. In our considered opinion, such facilities like club house, temple, park and library are not necessary to be made in a Agricultural Produce Marketing Committee yard although the Reference Court was of the opinion that they might be necessary. Leaving the said facilities out of our consideration, we reduce the percentage of deduction towards development charges made by the Reference Court and upheld by the High Court to 40%, holding the same to be appropriate and justified.

In terms of the aforesaid observations and directions as indicated above, these appeals are partly allowed. The appellants shall be entitled to get compensation in terms of the modification made herein and shall be paid the balance compensation in accordance with law, as expeditiously as possible, along with all other statutory

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benefits under Section 23, 28 and 34 of the Land Acquisition Act and as settled by this Court.

.....J
(DR.MUKUNDAKAM SHARMA)

.....J
(ANIL R.DAVE)

ITEM NO.101

COURT NO.13

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 NO(s). 4235-4236 OF 2004

GANAPATH RAO(DEAD) BY LR.

Appellant (s)

VERSUS

STATE OF KARNATAKA & ANR.

Respondent(s)

(With office report)

Date: 16/09/2010
today.

These Appeals were called on for hearing

CORAM :

HON'BLE DR. JUSTICE MUKUNDAKAM SHARMA

HON'BLE MR. JUSTICE ANIL R. DAVE

For Appellant(s)

Mr. Shankar Divate,Adv.

For Respondent(s)

Mr.Nand Kishore,Adv.

Mr.G.V.Chandershekhar,Adv.

Mr.N.K.Verma,Adv.

Mr. P.P. Singh,Adv.

Mr.Ramesh K.Mishra,Adv.

Mr. Sanjay R. Hegde ,Adv

UPON hearing counsel the Court made the following

O R D E R

The Appeals are partly allowed in terms of the signed
order.

(KUSUM SYAL)

SR.P.A.

(Signed Order is placed on the file)

(RENU DIWAN)

COURT MASTER