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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.3505 OF 2004

ZAKIR ALI (D) THROUGH HIS LEGAL HEIRSAPPELLANTS

VERSUS

STATE OF MAHARASHTRA & ANR. . . .RESPONDENTS

O R D E R

This appeal arises out of a judgment and decree dated 04.03.2003 passed by the Bombay High Court at Aurangabad Bench in First Appeal No.200 of 1988 by the leave of the Court.

The appellants-land owners' land having an area of 3 Hectares 74 R was acquired under the provisions of the Land Acquisition Act 1894 (for short 'the Act'). The Collector under the Act made award at the rate of Rs.900 per R.

On an objection by the land owners, a reference was ultimately made and the Reference Court assessed the market value at the rate of Rs.10 per sq.ft. Aggrieved by the same, the State of Maharashtra preferred an appeal and the High Court by the impugned order had set aside the judgment and decree of the Reference Court. That is how the land owners are before us.

The Reference Court on elaborate appreciation of evidence came to the conclusion that the land acquired has non-agricultural potentiality and further arrived at the market value taking into consideration the relevant sale deed. The High Court in appeal has set aside the finding of the Reference Court primarily on the ground that the appellants themselves had claimed compensation for the standing crop over the land acquired. Further the sale of land by the appellants was also taken into account to assess the market value.

The Reference Court, while recording the finding, took into account the existence of colleges and hostels in front of the acquired land. It also took into consideration the existence of large number of bungalows and housing colony and hotels at a distance of a half kilometre from the acquired land. These considerations led the Reference Court to come to the conclusion that the land acquired has non-agricultural potentiality. It further observed that the market price of the land having non-agricultural potentiality is definitely more than market price of the land having agricultural potentiality. Thereafter, it proceeded to consider the various sale deeds and taking into account the same, fixed the market value of the land acquired ultimately at Rs.10 per sq.ft.

We have perused the impugned judgment of the High Court and find that it had not met the reasoning assigned by the Reference Court while setting aside the important finding in regard to the potential use of the land.

We are of the opinion that in the facts and circumstances of the case, the finding recorded by the Reference Court is on proper appreciation of evidence which ought not to have been interfered with by the High Court in appeal.

In the result, we allow this appeal, set aside the judgment and decree passed by the High Court and restore that of the Reference Court but with no order as to costs.

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[Chandramauli Kr. Prasad]

