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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 6689 OF 2005

Anand Kishore (Dead) Through LRs & Ors. .. Appellants

Versus

Collector, Jalaun .. Respondents

O R D E R

This appeal arises out of the judgment and final order dated 23.4.2003 passed by the High Court of Judicature at Allahabad in First Appeal No. 867 of 1990.

The claimants are the legal representatives of the appellants herein. Six and odd acres of land was sought to be acquired in village Lahariya, Pragana, Tehsil Orai, District Jalaun for the purpose of Rigs Division Office Godown etc. The notification under Section 4(1) of the Land Acquisition act was issued on 10.9.1977. The Land Acquisition Officer, after having noticed that the land was being used for agricultural purposes, divided the land into three categories depending upon the quality of land for agricultural production and awarded different rates for each category of land.

Aggrieved by the fixation of the compensation of the acquired land on different categories, the claimants took up the matter in reference before the District Judge, Jalaun in

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Land Acquisition Reference No. 45 of 1980.

The Reference

Court appointed a Commissioner to submit the report with regard to the situation and potential of the acquired land.

The Commissioner submitted two reports dated 3.11.1983 and

25.4.1984 stating that the acquired land had commercial potentials. The Reference Court took into consideration the

objections raised against the reports submitted by the

Commissioner. The Reference Court has elaborately gone through the evidence of PW1 to PW3 and also perused the documents as per Lists 10C and 87C. On the side of the

Department, DW1 was examined. Considering the documentary

evidence and noticing the various sale deeds, the Reference Court fixed the market value for the acquired land at Rs.12/-

per sq. yard. From the side of the State, it was pointed out

that since a large tract of the land was being acquired on

which development activities were to be carried out, a deduction of at least 30% should be made. The Reference Court

took the view that a deduction of 20% would be sufficient to

meet out the development costs etc. Holding so, the

Reference Court vide its order dated 21.5.1987 held that the

claimants would be entitled to get compensation in respect of

the acquired land at the rate of Rs.12/- per sq. yard after

making deduction at the rate of 20% towards development costs

etc. The Reference Court ordered that the claimants would be

entitled to the statutory benefits as well.

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Aggrieved by the said order, the claimants filed First

Appeal No. 867 of 1990 before the High Court.

The High Court,

however, noticed that a deduction of 33.3% would be an

appropriate deduction in the facts and circumstances of the

case and held that the claimants would be entitled to get

compensation at the rate of Rs.18/- per sq. yard and

accordingly modified the order of the Reference Court.

Shri Pramod Swarup, learned senior counsel appearing for

the appellants, submitted that the High Court has committed an

error in determining the rate of compensation at Rs.18/- sq.

yard, for which there was no basis, nor any evidence lead for

making the deduction at the rate of 33.3% towards development

costs.

We find that the High Court has placed reliance on the

two sale deeds dated 15.4.1977 as best exemplar to decide the market value of the acquired land. According to those sale deeds, the market value of the adjoining land was Rs.27/- per sq. yard, but noticing that those sale deeds being of very small area, deduction of 33.3% was made and the High Court fixed the compensation at Rs.18/- per sq. yard.

We notice that both the parties placed considerable arguments regarding the rate of deduction and the Reference Court after elaborately considering the arguments held that

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the deduction at the rate of 20% would be just and proper in the facts and circumstances of the case. The High Court has given no reasons why it had deducted at the rate of 33.3% towards development costs etc., while overruling the deduction of 20% made by the Reference Court. In our view, a deduction of 20% would a proper deduction as ordered by the Reference Court after appreciating the oral and documentary evidence. Unless the finding recorded by the Reference Court is perverse or unreasonable, generally the High Court is not justified in upsetting the same.

We accordingly partly allow the appeal and modify the judgment and order of the High Court and hold that a deduction of 20% would meet the ends of justice. Consequently, we hold that the appellants would be entitled to get compensation at the rate of Rs.22.60 per sq. yard for the land acquired with all statutory benefits including the benefits available under Section 23(1-A) of the Land Acquisition Act. The amount be disbursed by the State within a period of three months from the date of receipt of this order.

..J.

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(G.S. SINGHVI)

.J.

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(K.S. RADHAKRISHNAN)

New Delhi,
April 27, 2011.

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ITEM NO.111

COURT NO.9

SECTION XI

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). 6689 OF 2005

ANAND KISHORE(DEAD) THROUGH LRS. & ORS. Appellant (s)

VERSUS

COLLECTOR, JALAUN Respondent(s)

(With office report)

Date: 27/04/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Appellant(s) Mr.Pramod Swarup, Sr.Adv.
Ms.Sushma Verma, Adv.

For Respondent(s)

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

The appeal is partly allowed in terms of the signed
order.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed order is placed on the file)