

SUPR EME COUR T OF I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 7209 OF 2004

BHAGAT SINGH & ORS.

Appellant (s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

WITH
CIVIL APPEAL NO. 7210 OF 2004
[MEHAR SINGH & ORS. V. UNION OF INDIA]

Date: 04/08/2009 This Appeal was called on for pronouncement of judgment today.

For Appellant(s) Mr. M.P. Shorawala, Adv.

For Respondent(s) Mrs. Anil Katiyar, Adv.

Hon'ble Mr. Justice S.B. Sinha pronounced the judgment of the Bench comprising of His Lordship and Hon'ble Mr. Justice Cyriac Joseph.

For the reasons recorded in the signed reportable judgment these appeals fail and are dismissed. No costs.

(KALYANI GUPTA)
SR. P.A.

(PUSHAP LATA
BHARDWAJ)
COURT MASTER

[SIGNED REPORTABLE JUDGMENT IS PLACED ON THE FILE.]
REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 7209 OF 2004

Bhagat Singh and others
Appellants

....

Versus

Union of India and another
Respondents

...

WITH
CIVIL APPEAL NOS. 7210 OF 2004

Mehar Singh and others Appellants
Versus
Union of India Respondent

JUDGMENT

S.B, SINHA, J.

1. Appellants were owners of the lands situate in village Ghewra. The said lands were acquired for a public purpose, namely construction of L.P.G. Bottling Plant. Notification under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') was issued on 18th March, 1985 in terms whereof, compensation @ Rs.14,000/- ; Rs.12,000/- and Rs.10,000/- per bigha was offered categorizing the acquired lands in three categories viz. 'A', 'B' and 'C'.

2. Applications for reference in terms of Section 18 of the Act having been made, the Reference Court determined the fair market value at Rs.23,970/- ; Rs. 21,970/- and Rs.19,970/- per bigha respectively having regard to categorization by the Land Acquisition Collector.

3. Being dissatisfied with the said judgment the appellants filed Appeals before the High Court claiming compensation at the rate of Rs.40,000/- per bigha. However, a Division Bench of the High Court, having regard to its earlier decision rendered in Ranjit Singh vs. Union of India reported in 48(1992) DLT 138, where the lands were acquired for the same purpose and under the same Notification, determined the market value at Rs.26,775/- ; Rs.24,775/- and Rs.22,775/- per bigha for categories 'A', 'B' and 'C' respectively.

4. The contention raised before us is that the High Court committed a serious error in passing the impugned judgment in so far as it three sale deeds which were marked as Exts. A-5 to A-7 had not been taken into consideration. The details of the said sale deeds are as under :-

- "(i) Vide Ex.A-5, 2 Bigha 1 Biswas land in village Ghewra was sold for Rs.45,000/- i.e. around Rs.22,000/- per Bigha as on 15.10.81"
- (ii) Vide Ex.A-6, 2 Bigha 13 Biswas land was sold in village Tikri Kalan for Rs.42,000/- i.e. Rs.25,500/- approx. per bigha.
- (iii) Vide Ex.A-7, 12 Biswas land in village Tikri was sold on 23.10.81 for Rs.25,000/- i.e. @ Rs.41,650/- per bigha approx.

Award wherein the market value of the similarly situated land was fixed at Rs.22,000/- per bigha.

Our attention has also been drawn to a document purported to be showing the Market Price of Delhi Agricultural Lands.

5. The High Court, as noticed above, has proceeded to determine the market value of the land keeping in view its earlier decision in Ranjit Singh (supra).

6. A Special Leave Petition being No.3211 of 1993 was filed by Ranjit Singh against the said order which stood dismissed in limine on 19th April, 1993.

7. In absence of any material brought on record, it is difficult to disagree with the High Court's opinion particularly when our attention has not been drawn to any evidence that the lands in the case of Ranjit Singh was inferior in character vis-à-vis the lands acquired in the present case or that some other additional materials have been brought on record in the present case so as enable this Court to take a different view.

8. So far as the three deeds of sale relied upon by the appellants are concerned, we may notice that Exts.A-6 and A-7 were in respect of land situated in two different villages. Ext.A-5 pertains to the village in question wherein the land was stated to have been sold at Rs.22,000/- per bigha.

9. The principal question which arises for our consideration is what principle should be applied for determining the market value of the land. It is now a well settled principle of law that the determination of the market value of the land acquired, indisputably would depend upon a large number of factors, including the nature and quality thereof. The norms which are required to be applied for determination of the market value of the agricultural land and homestead land may be different. In given cases location of land and in particular, closeness thereof from any road or high-way would play an important role for determination of the market value wherefor belting system may in appropriate cases have to be resorted to. The position of the land, particularly in rainy season, existence of any building etc. also plays an important role. A host of other factors including development in and around the acquired land and/or the potentiality of the development will have a bearing on

determination of the value of the land.

10. Determination of the market value of the land may also depend upon the facts and circumstances of each case, amongst them, however, would be the price of land, amount of consideration mentioned in a deed of sale executed in respect of similarly situated land near about the date of issuance of Notification under Section 4(1) of the Act ; in the absence

5

of any such exemplars the market value can be determined on yield basis or in case of an orchard on the basis of number of fruit bearing trees. It is also well settled that for price determination purposes, the courts would be well advised to consider the positive and negative factors, as has been laid down by this Court in Viluben Jhalejar Contractor vs. State of Gujarat [(2005) 4 SCC 789], namely :-

11. This Court in Union of India v. Pramod Gupta, [(2005) 12 SCC

1], on the question of determination of market value opined :-

"24. While determining the amount of compensation payable in respect of the lands acquired by the State, the market value therefor indisputably has to be ascertained. There exist different modes therefor.

25. The best method, as is well known, would be the amount which a willing purchaser would pay to the owner of the land. In absence of any direct evidence, the court, however, may take recourse to various other known methods. Evidences admissible therefor inter alia would be judgments and awards passed in respect of acquisitions of lands made in the same village and/or neighbouring villages. Such a judgment and award, in the absence of any other evidence like the deed of sale, report of the expert and other relevant evidence would have only evidentiary value.

26. Therefore, the contention that as the Union of India was a party to the said awards would not by itself be a ground to invoke the principles of res judicata and/or estoppel.

Despite such awards it may be open to the Union of India to question the entitlement of the respondent claimants to the amount of compensation and/or the statutory limitations in respect thereof. It would also be open to it to raise other contentions relying on or on the basis of other materials brought on record. It was also open to the appellant to contend that the lands under acquisition are not similar to the lands in respect whereof judgments have been delivered. The area of the land, the nature thereof, advantages and disadvantages

occurring therein amongst others would be relevant factors for determining the actual market value of the property although such judgments/awards, if duly brought on record, as stated hereinbefore, would be admissible in evidence."

It was furthermore noticed :-

"36. Yet again in *Ras Behari Mandal v. Raja Jagadish Chandra Deo Dhaubal Deb* the Patna High Court reiterated the presumption that the lessor retains all the rights in mines and quarries. It also noticed the decision of the House of Lords in *Great Western Rly. Co. v. Carpalla United China Clay Co. Ltd.* wherein a grant reserving minerals was held to exclude a deposit of china clay despite the fact that the same was found near the surface."

It was furthermore noticed :-

"82. In *V. Hanumantha Reddy v. Land Acquisition Officer & Mandal R. Officer* the law is stated in the following terms:

"It is now a well-established principle of law that the land abutting the national highway will fetch far more higher price than the land lying interior."

This Court furthermore opined :-

"84. It is also trite to state that the market value of agricultural land is lower than that of the land suitable for commercial purposes. (See *Om*

7

Prakash v. Union of India.)

It was observed :-

"87. The courts will also have to take into consideration the enormity of the financial implication of enhancement in view of the size of the land acquired for a particular project."

In *Ranvir Singh v. Union of India*, [(2005) 12 SCC 59], this

Court held as under :-

"22. Concededly, the High Court in its impugned judgment did not place any reliance whatsoever upon the sale instances whereupon strong reliance has been placed by the parties solely on the ground that neither the vendors nor the vendees thereof had been examined as witnesses. It has also not placed any reliance upon any other judgment or award filed by the parties. The High Court while arriving at the said finding evidently took into consideration the law as it then stood. The correctness of the decisions wherein the aforementioned view had been taken was doubted and the matter was referred to a larger Bench."

Referring to *Cement Corporation (supra)*, it was opined that the High Court was required to consider the deeds of sale in their proper perspective for determining the market value of the acquired land.

In *Karimbanakkal Sulaiman (Dead) by L.Rs.*

v. Special

Tahsildar for K.A.K.P.I.P., [(2004) 13 SCC 643], this Court held:

"These factors have been taken into consideration by the High Court in fixing the land value. Moreover, the land acquired was agricultural land and it was acquired for the purpose of an irrigation project. There is nothing on record to show that the land had any commercial value or future potentialities. We do not think that the land value fixed is too low to be interfered with by this Court."

In Viluben Jhalejar Contractor v. State of Gujarat, [(2005) 4 SCC 789], this Court opined that :-

"24. The purpose for which acquisition is made is also a relevant factor for determining the market value. In Basavva v. Spl. Land Acquisition Officer deduction to the extent of 65% was made towards development charges."

In Basant Kumar v. Union of India, [(1996) 11 SCC 542], this Court has opined that even if the entire land is of one village all the persons cannot be given same compensation, stating:-

"...It has been firmly settled law by beadroll of decisions of this Court that the Judge determining the compensation under Section 23(1) should sit in the armchair of a willing prudent purchaser in an open market and see whether he would offer the same amount proposed to be fixed as market value as a willing and prudent buyer for the same or similar land, i.e., land possessing all the advantageous features and to the same extent. This test should always be kept in view and answered affirmatively, taking into consideration all relevant facts and circumstances. If feats of imagination are allowed to sway, he outsteps his domain of judicial decision and lands in misconduct amenable to disciplinary law..."

12. Our attention has not been drawn to any discussion made either by the Reference Court or any other evidence brought on record to establish that the land under Ext. A-5 was similar to the lands under acquisition in the appeals in question. It has also not been shown to

9

which category the land sold in terms of the sale deed Ext. A-5 dated 15th October, 1981 would fall. Even assuming that some appreciation has taken place, the market value of the land, even for 'C' category has been fixed at Rs.2275/- per bigha; as such we are of the opinion that appellants have not been prejudiced in any manner.

13. For the reasons aforesaid these appeals fail and are dismissed. No costs.

.....J.
[S.B. Sinha]

.....J.
[Cyriac Joseph]

New Delhi
August 4, 2009