

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).13903/2006

(From the judgement and order dated 21/03/2006 in FA No. 42/1993 of The HIGH COURT OF M.P AT INDORE)

YOGINI AND ORS. Petitioner(s)

VERSUS

STATE OF M.P. Respondent(s)

(With appln(s) for exemption from filing O.T.,permission to file additional documents and prayer for interim relief and office report)
(FOR FINAL DISPOSAL)

WITH
SLP(C) NO. 14375 of 2006
(With appln.(s) for exemption from filing O.T. And with prayer for interim relief)

SLP(C) NO. 139-147 of 2009
(With appln.(s) for permission to place addl.documents on record

SLP(C) NO. 1020 of 2009
(With office report)

(FOR FINAL DISPOSAL)

Date: 17/03/2010 These Petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE C.K. PRASAD

For Petitioner(s) Mr. Puneet Jain,Adv.
Ms. Eshita Baruah,Adv.
Mr. Sushil Kr.Jain,Adv.
Ms. Pratibha Jain,Adv.

Mr. D.V. Dave,Adv.
Mr. R.K. Rathore,Adv.
Ms. Meenakshi Arora,Adv.

Mr. A.K. Chitale,Sr.Adv.
Mr. Niraj Sharma,Adv.
Mr. Vikrant Singh Bais,Adv.
Mr. Sumit Kumar Sharma,Adv.

For Respondent(s) Mr. Vikas Upadhyay,Adv.
Mr. B.S. Banthia,Adv.

Mr. C.A. Sundaram,Sr.Adv.
Mr. Sanjay Kapur,Adv.
Mr. Rajiv Kapur,Adv.
Ms. Shubhra Kapur,Adv.
Ms. Arti Singh,Adv.
Mr. R. Misra,Adv.
Mr. Zafarinayat,Adv.
Mr. Abhishek Gupta,Adv.

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

SLP(CIVIL) NO.13903 of 2006 AND SLP (CIVIL) NO.14375 of 2006

The Special Leave Petitions are dismissed in terms of the signed order.

CIVIL APPEAL NO. 2745-2753 OF 2010
(Arising out of SLP (C) No.139-147 of 2009)
and
CIVIL APPEAL NO.2780 OF 2010
(Arising out of SLP (C) No.1020 of 2009)

Leave granted.

These appeals are allowed in terms of the signed order and impugned judgments of the High Court are set aside. The appeals are remanded to the High Court for re-consideration of the market value after considering the application under Order 41 Rule 27 CPC, and if found relevant, the decision in Yogini. In that context, the High Court may reconsider the entire issue of market value. As the matters relates to 1978 acquisitions, we request the High Court to dispose of the appeals expeditiously.

(O.P. Sharma)
Court Master
(Two signed orders are placed on the file.)

(M.S. Negi)
Court Master

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO.13903 of 2006

AND

SPECIAL LEAVE PETITION (CIVIL) NO.14375 of 2006

YOGINI & ORS.

...PETITIONERS

VERSUS

STATE OF MADHYA PRADESH

...RESPONDENTS

O R D E R

In regard to the acquisition of lands for laying down

pipelines for supply of water of Narmada River to Indore City and for constructions of roads, under preliminary notification dated 9.7.1974, the Land Acquisition Collector awarded compensation at the rate of Rs.9700/- per acre. The Reference Court awarded Rs.3/- per sq.ft.(less one-third area for roads etc.). The High Court awarded Rs.7/- per sq.ft. The petitioners have not made out any question of law or any ground to increase the compensation awarded by the High Court.

2. Learned counsel for the petitioners submitted that order of the High Court is being misinterpreted by the respondent. He submitted that the Reference Court while awarding compensation had arrived at the market rate as Rs.3 per sq.ft. but had deducted one-third of the area for roads, drainage, parks etc. The High Court by a different method has arrived at the market value at Rs.7 per sq.ft., but did not direct any deduction of either one-third or any other percentage of the area for roads, drainage, parks etc. The petitioner submitted that in spite of it, an attempt is made by the respondent to pay compensation only for two-third of the area. The judgment of the High Court is clear and categorical. It says that compensation will have to be paid at the rate of Rs.7 per sq.ft for the area acquired. The direction for deduction of one-third of the land area given by Reference Court was not reiterated by the High Court. There can therefore be no occasion for any wrong interpretation. Be that as it may.

3. The learned counsel for the respondent submitted that this order should not come in the way of the respondent challenging the decision of the High Court in this case or challenging its applicability in any other case. He also submitted that one of the reasons why the judgment of the High Court was not so far challenged was presumably because the State was under the impression that one-third deduction applied by the Reference Court also applied to the

determination of market value by the High Court; and that it may therefore be reserved the liberty to challenge the judgment, in view of the clarification above. We are merely dismissing the special leave petitions file by the claimants on the ground that no ground is made out for increasing the compensation. But that does not mean that we have approved the market value as reasonable or correct or that it is not open to the State to challenge the judgment of the High Court as being excessive. This order will not come in the way of any challenge if it is in accordance with law.

4. The Special Leave Petitions are dismissed.

.....J.
[R.V. RAVEENDRAN]

.....J.
[R.M. LODHA]

NEW DELHIJ.
MARCH 17, 2010 [C.K. PRASAD]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2745-2753 OF 2010
[Arising out of SLP (C) No.139-147 of 2009]

Laxminarayan (dead) through Lrs. & Ors. ...Appellants

Vs.

Indore Development Authority & Anr. ...Respondents

With

CIVIL APPEAL NO.2780 OF 2010
[Arising out of SLP (C) No.1020 of 2009]

Sardar Virender Singh Bohra ...Appellant

Vs.

State of Madhya Pradesh & Ors. ..Respondents

O R D E R

Leave granted.

2. Certain lands in the villages Tejpur Gadbadi and Piplya Rao near Indore were acquired to enable for Indore Development Authority ('IDA' for short) to establish a Sabzi Mandi pursuant to preliminary notification dated 14.7.1978. The Land Acquisition Collector by his award dated 24.3.1979 offered compensation at the rate of Rs. 42,000/- per hectare in regard to land in the village Piplya Rao and at the rate of Rs. 37,000/- per hectare for irrigated land (grassy land) and Rs. 12,350/- per hectare in regard to unirrigated land (fallow land) in village Tejpur Gadbadi. By awards dated 15.3.2001 and 20.10.2000, the Reference Court divided the acquired lands into two categories and awarded compensation at the rate of Rs. 50,000/- per acre in regard to irrigated land and Rs. 25,000/- per acre in regard to the other lands. Aggrieved thereby, both the claimants and the respondents filed appeals. The Madhya Pradesh High Court disposed of the appeals by judgments dated 16.6.2008 awarding compensation at a uniform rate of Rs. 50,000/- per acre. The claimants have filed these appeals contending that the compensation is inadequate.

3. One of the contentions urged by the claimants-appellants is that they had filed an application under Order 41 Rule 27 CPC before the High Court at the final hearing, for taking note of judgment of the said High Court in *Yogini v. State of Madhya Pradesh* (F.A.Nos. 42 and 43 of 1993 decided on 21.3.2006) in regard to acquisition of land at Tejpur Gadbadi under preliminary notification dated 9.9.1974, under which compensation had been awarded at the rate of Rs.7 per sq.ft. (Rs. 3,04,920/- per acre) in regard

to land at Tejpur Gadbad and Piplya Rao. Their contention is that the said judgment was squarely applicable as it relate to acquisition of lands in the very same villages about four years prior to this acquisition and therefore that should have been the basis for determination of compensation with appropriate increase for the passage of four years. It was submitted that though the applications for additional evidence were filed in September/October, 2007, the appeals were disposed of by the impugned judgment dated 16.6.2008 without considering the pending applications under Order 41 Rule 27 CPC for additional evidence and ignoring the decision of the High Court in Yogini. On careful consideration of the impugned judgment of the High Court, we find that the grievance of the appellants is justified. When the judgment of another division bench was relied on, that too with an application under order 41 Rule 27 CPC, the High Court ought to have considered it. The High Court could have of course distinguished it, or followed it, but could not have ignored it. If it felt that evidence was necessary to find out comparative advantages or disadvantages of the two lands, it could have even called for a finding with reference to the same. But the High Court did not do so.

4. On the other hand, learned counsel for the respondents pointed out that the decision in Yogini may not be relevant due to several reasons. They submitted that it relate to acquisition of a narrow strip of land for a pipeline immediately adjoining the road on the other side of the road and cannot be the basis for determining the compensation for acquisition of a large tract of land for the grain market. He also submitted that for the purpose of the said pipeline there was acquisition in regard to lands from as many as 9 villages and some of those lands were very near to Indore and the High Court had for the sake of

convenience awarded the same compensation for all the lands acquired which had resulted in higher compensation being awarded in regard to lands in Tejpur Gadbadi though it was far away from Indore and therefore, the decision in Yogini is not relevant. Learned counsel for appellants-claimants contends otherwise. There is no material on record to show whether the position and situation of the lands in Yogini and its relative advantages and disadvantages.

These are

matters which will have to be examined by the High Court, if necessary with reference to evidence.

5. Therefore without expressing any view on the question whether the decision in Yogini is to be relied on or not, these appeals are allowed and impugned judgments of the High Court are set aside. The appeals are remanded to the High Court for re-consideration of the market value after considering the application under Order 41 Rule 27 CPC, and if found relevant, the decision in Yogini. In that context, the High Court may reconsider the entire issue of market value. As the matters relates to 1978 acquisitions, we request the High Court to dispose of the appeals expeditiously.

(R. V. Raveendran) J.

(R.M. Lodha) J.

New Delhi;
March 17, 2010.

(C.K. Prasad) J.