¶8ITEM NO.44 COURT NO.3 SECTION IVA

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).31001/2008

(From the judgement and order dated 12/11/2007 in MSA No. 97/2007 of The HIGH COURT OF KARNATAKA AT BANGALORE)

GUNDAMMA Petitioner(s)

VERSUS

STATE OF KARNATAKA Respondent(s)

(With appln(s) for c/delay in filing SLP)

Date: 31/01/2011 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE A.K. PATNAIK

For Petitioner(s) Mr. Basava Prabhu Patil,Sr.Adv.
Mr. C.M. Angadi,Adv.
Mr. Rameshwar Prasad Goyal,Adv.

For Respondent(s) Ms. Anitha Shenoy,Adv.

UPON hearing counsel the Court made the following

O R D E R

Delay condoned.

Leave granted.

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

(O.P. Sharma) (M.S. Negi)
Court Master Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1141 OF 2011
(Arising out of SLP(C)No.31001/2008)

GUNDAMMA ..Appellant

VERSUS

STATE OF KARNATAKA ..Respondent

O R D E R

Leave granted. Heard.

2. Agricultural land measuring 7 acres 34 guntas belonging to appellant was acquired for construction of Water Beeramhalli Water Tank in pursuance of preliminary notification dated 19.11.1992 under Section 4(1) of the Land Acquisition Act, 1894. The Land Acquisition Officer by his award dated 22.9.1995 determined the compensation as Rs.7000/- per acre. On reference, the Civil Court by judgment and award dated 10.12.1999 increased the compensation to Rs.26,000/- per acre which was affirmed in part by the District Judge, Gulbarga by its judgment dated 2.11.2002. On further appeal to the High Court, by its impugned judgment dated 12.11.2007, the compensation was increased to Rs.36,790/- per acre. The claimant has filed this appeal by special leave contending that the increase given by the High Court is inadequate and that the High

Court had not applied the principles of valuation properly. The only question that therefore arises for consideration is whether the compensation awarded requires to be examined.

3. Evidence led on behalf of the claimant/appellant showed that the acquired lands were fertile (with Black Cotton Soil) yielding two crops in a year, that is, six quintals of toor and six quintals of jowar per acre of land, in all 12 quintals, apart from 12 cart loads of jowar stalks used as fodder. The authorised price lists were exhibited showing that the price per quintal varied from Rs.660/-(maximum) to Rs.500/- (minimum) for jowar and Rs.1395/-(maximum) to Rs.1200/-(minimum) in regard to toor.

4. The Reference Court determined the market value by income capitalisation method. It took the minimum rates of Rs.500/- per quintal in regard to jowar and Rs.1200/- per

quintal in regard to toor, and on that basis arrived at the compensation payable as Rs.26,000/- per acre. The High Court was of the view that the instead of adopting the minimum prices as the basis, the average price should be the basis and accordingly took the average of the maximum and minimum prices that is Rs.580/- per quintal for jowar and Rs.1297/- per quintal for toor, as the basis. As the

yield per acre was six quintals of toor and six quintals of jowar, the High Court arrived at the value of the said crops as Rs.11262/- and by adding Rs.1000/- towards the value of fodder, arrived at the yield per acre as Rs.12,262/- The High Court assumed that toor and jowar were alternate yearly crops, that is, the crop of toor in one year and crop of jowar during the next year. As a consequence, the High Court assumed that only half of the value of the yield calculated by it, that is Rs.6131/- as the yield per year. The High Court deducted 40% thereof towards cultivation cost and determined the net income from the land as Rs.3679/- per year. By applying a multiplier of ten, it arrived at the compensation payable for the land, as Rs.36790/- per acre.

5. We find that both the Reference Court and the High Court while determining the compensation, have committed an error in assuming that the crops of toor and jowar were from alternate years, that is, six quintals of toor were grown in one year and six quintals of jowar were grown in the next year. The specific evidence led by the land-owners was that there were two crops in a year, that is, a crop of six quintals of toor and crop of six quintals of jowar, in all 12 quintals per year. Therefore, the High Court ought to have taken the value of the yield as

Rs.12262/- per acre. If the value of the yield was

Rs.12262/- per year and if 50% thereof was deducted towards the cost of cultivation, the net income per acre would be Rs.6131/-. By applying a multiplier of 10, by way of capitalisation, the compensation payable would be Rs.61,310/- per acre of land.

4. We accordingly, allow this appeal in part and increase the compensation awarded, from 36,790/- to Rs.61,310/- per acre with solatium at 30%, additional amount at 12% per annum from 19.11.1992 to 22.9.1995 and interest on the compensation on the excess of what was awarded by the Land Acquisition Officer, at the rate of 9% per annum for one year from the date of preliminary notification (19.11.1992) and thereafter at the rate of 15% per annum.

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

..................J.
[A.K. PATNAIK]

NEW DELHI
JANUARY 31, 2011