

**SUPREME COURT OF INDIA**

Narayana Pillay Daivasen

Vs.

State of Kerala

C.A.No.607 of 1967

(J. C. Shah, C.J.I., K. S. Hegde and A. N. Grover, JJ.)

05.01.1971

**JUDGEMENT**

**GROVER, J.:-**

1. This is an appeal by certificate from a judgment and decree of the Kerala High Court arising out of assessment of compensation for acquisition of certain land.

2. On April 22, 1957, the land in dispute had been purchased by the appellant from the Maharaja of Travancore at a nominal price. It was comprised in survey No. 1680 and its area was stated in the sale deed to be 5 Acres and 10 Cents. Later on by a sale deed dated October 14, 1957 the appellant retransferred an area of 65 Cents to the Maharaja. It was claimed by him that according to the survey plan and the revenue records the area left in his ownership came to 4 Acres and 45 Cents. On June 13, 1959 the appellant sold 15 Cents out of the aforesaid area for Rs. 7500/-. On August 17, 1959 he sold another 5 Cents for Rs. 2875/-.

3. On September 22, 1959 a notification for acquisition of the land was issued under S. 4 of the Land Acquisition Act. This was followed by a notification under S. 6 on June 21, 1960. The Government took possession on August 4, 1961. The Deputy Collector awarded compensation at the rate of Rs. 100 per Cent calculating the total amount on the basis that the area was 4 Acres 15 Cents. The appellant asked for a reference under S. 18 of the Act. In that application he did not challenge the extent of the area acquired but made a grievance of the market rate having not been awarded.

Before the Additional Subordinate Judge, who decided the reference, the appellant, however, raised the question that the actual area which had been acquired was 4 Acres 25 Cents and not 4 Acres 15 Cents. This part of the appellant's claim was negatived by the Additional Subordinate Judge. As regards the rate at which the compensation was to be awarded the learned judge accepted the sales made on June 13, 1959 and August 17, 1959 by means of Exhibits P. 13 and P. 14 as genuine. But after considering the whole evidence the rate of compensation was fixed at the rate of Rs. 150/- per Cent. The appellant appealed to the High Court. That appeal was heard along with some other appeal and the High Court fixed the value at the rate of Rs. 300/-per Cent whereas the claim of the appellant was that Rs. 450/- per cent should be awarded.

4. The High Court was of the view that the area of the lands covered by Exhibits P. 13 and P. 14 was comparatively very small. After a consideration of the evidence and in particular of D. W. 1, who was a revenue supervisor, the High Court came to the conclusion that the acquired property was roughly about 10 feet below the road level at the lowest point and could not be entered from the road on the east directly though it would be possible to enter it if the wall on the northern side was demolished and the land levelled. As regards the value of the plot sold by Exhibits P. 13 and P. 14 the High Court was of the opinion that after deducting the value of the granite compound wall the average value of the land covered by the two sales was roughly Rupees 450/- per cent. The High Court then proceeded to say:

"The property acquired is, no doubt, fairly extensive, having an area of 4.15 acres. But it is in a very important locality is not disputed. It is near the Post Office and High School and lies abutting the main central road leading from Trivandrum to Nagercoil and it is within the city corporation, and in fact is very near crowded areas where gramas are situate. It is bounded on three sides by roads. There is no direct access from the main central road at the time of acquisition. But there is an equally good road as far as access is concerned on the western side, which links up with the main central road. It is in evidence that after the acquisition without any filling up or levelling up, it is admitted by D. W. 1, that the property has been utilised for the constriction of school buildings. The only factors therefore are the largeness of the area and the difference between the levels between the properties covered by Exts. P. 13 and P. 14 on the one hand and the acquired property on the other. After considering all the aspects, we feel that a minimum of two-thirds of the value which we have fixed as the value of the lands covered by Exts. P. 13 and P. 14 should be awarded as land value for the acquired property. We accordingly fix the land value of the acquired property at Rs. 300/- a cent. ....

5. Learned counsel for the appellant has not been able to show in what manner the appreciation of evidence by the High Court was defective and should not be accepted as correct. It has been contended that the situation of the land acquired is in no way different from that of the plots covered by the sale deeds Exts. P. 13 and P. 14. Unfortunately no plan has been shown to us from which the relative situation could be determined of the acquired land and the plots which had been sold. At any rate the largeness of the area is a relevant factor which was rightly taken into consideration by the High Court and similarly the evidence of D. W. 1 which has been accepted showed that the level of the land acquired was very much below the road level. We find no such infirmity in the reasoning of the High Court and appreciation of evidence by it which would justify interference in appeal by this court.

6. The only other question which has been sought to be pressed before us relates to the extent of the area which was acquired. Since in the application for reference under S. 18 of the Act it was accepted that the area was 4 Acres 15 Cents we are unable to see how it is open to the appellant to agitate that matter.

7. The appeal fails and it is dismissed with costs.

Appeal dismissed.