

The Collector of Lakhimpur

Vs

Bhuban Chandra Dutta

Civil Appeal No. 1605 of 1969

(K. S. Hegde, A. N. Grover JJ)

29.01.1971

JUDGMENT

GROVER, J. -

1. This is an appeal by certificate from a judgment of the High Court of Assam and Nagaland in which the question involved is one of the quantum of compensation for certain land belonging to the respondent which had been acquired.

2. A piece of land measuring 5 Bighas, 4 Kathas and 3 lechas in Dibrugarh district belonging to the respondent was requisitioned on August 22, 1956 under the Assam Land Requisition and Acquisition Act, 1948, hereinafter called the "Act". By a notification dated September 21, 1962 the said land was compulsorily acquired under the provisions of the Act. The Collector awarded compensation at the rate of Rs. 4,583 per Bigha. The respondent had at first claimed compensation at the rate of Rs. 10,000 per Bigha but after a little over a month he raised his claim to Rs. 15,000 per Bigha. A reference was sought by the respondent to the District Judge who modified the award of the Collector and held that compensation was payable at the rate of Rs. 5,500 per Bigha. The respondent preferred an appeal to the High Court which enhanced the compensation to Rs. 15,000 per Bigha.

3. The respondent had relied largely on four sale deeds Exhibits 1, 2, 3 and 4. By Exhibit 1 a lot of land measuring 1 Katha, 7 lechas in the vicinity of the land which had been acquired was sold on February 10, 1962 for Rs. 3,888/-. By Exhibit 2 an area of 1 Katha was sold for Rs. 2,880 on January 5, 1962. By Exhibit 3 an area of 2 Kathas was sold for Rs. 5,472 on March 21, 1963. By Exhibit 4 an area of 2 Kathas and 13.7/36 lechas was sold on July 26, 1962 for Rs. 9,100. The High Court was of the view that the market price of the land which had been acquired should be assessed on the basis of these four sale deeds, the average price of which came to about Rs. 15,000 per Bigha. The District Judge had rejected these sale deeds and had based his decision mainly on a sale deed Exhibit L by which the respondent had himself sold a piece of the land which originally formed part of the land which was the subject-matter of acquisition. This had been sold on April 7, 1962 and its area was 1 Bigha and it was sold for Rs. 5,000. The respondent gave evidence that the land covered by the sale deed had been the subject-matter of litigation with his brother and it was for that reason that the price got depressed and he sold that piece of land for inadequate consideration. The High Court was inclined to accept the evidence of the respondent relating to the circumstances in which the sale of 1 Bigha for Rs. 5,000 was effected. The evidence which had been produced on behalf of the Collector related to the early part of the year 1960 and could hardly be regarded as relevant.

4. In our opinion the High Court overlooked the fact that the plots which were the subject-matter of the sale deeds Exhibits 1 to 4 were comparatively of small areas and it is well known that when a large area like the one which was the subject-matter of acquisition has to be sold it cannot possibly fetch a piece at the same rate at which small plots can be sold. It is significant that the respondent himself had originally claimed, before the Collector, compensation at a rate higher than Rs. 10,000 which would also be consistent with the evidence furnished by the four sale deeds. Although the average price of these sales came to Rs. 15,000 per Bigha but when it is considered, as has already been observed, that they were of comparatively much smaller area they would constitute good evidence for fixing the rate at a figure which was originally claimed by the respondent, namely, Rs. 10,000 per Bigha.

5. We would accordingly allow this appeal to the extent of reducing the rate of compensation from Rs. 15,000 per Bigha to Rs. 10,000 per Bigha. In other respects the appeal fails and it is dismissed. There will, however, be no order as to costs.

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