

Dilawarsab Babusab Mullasab and Others

Vs

Special Land Acquisition Officer

Civil Appeals Nos. 1703-1706 of 1973

(CJI A. N. Ray, K. K. Mathew, A. Alagiriswami JJ)

08.10.1974

JUDGMENT

ALAGIRISWAMI, J.

1. These four appeals arise out of the judgment of the High Court of Mysore in four appeals in certain land acquisition matters.
2. The lands with the acquisition of which we are concerned were acquired by the Government of Mysore for the Malaprabha project. They are situated in Gondi village of Parasgad Taluka. The preliminary notification under Section 4 was published on September 26, 1963 and December 12, 1963 and the Land Acquisition Officer made his award on March 22, 1969. The appellants applied for reference to the Civil Court under Section 18 of the Land Acquisition Act. The Civil Judge, Belgaum, considered these four cases along with another case, with which we are not concerned, and delivered a common judgment in all the five cases.
3. In L.A.C. No. 990 of 1970 a total extent of 7 acres 27 gunthas were acquired. The Land Acquisition Officer had granted compensation at the rate of Rs. 1,200 per acre in respect of 6 acres 17 gunthas. For all these lands the Civil Judge granted compensation at the rate of Rs. 4,000 an acre. It should be noticed at this stage that the claimants did not file any claims when they received notice under Section 9 of the Land Acquisition Act.
4. In L.A.C. No. 991 of 1970, the extent of land involved is 24 acres and 15 gunthas. Out of these the claimants said that 10 acres is bagayat and 14 acres 15 gunthas is jirayat. Here also they did not file any claim under Section 9. The Land Acquisition Officer had granted compensation at the rate of Rs. 3,500 for one acre and Rs. 2,000 per acre for two acres and Rs. 1,200 per acre for the balance of 21 acres 15 gunthas. The Court took Rs. 300 per acre as the annual income of the bagayat land and Rs. 200 per acre for jirayat land and on that basis allowed Rs. 6,000 per acre compensation for bagayat lands and Rs. 4,000 per acre for the jirayat lands.
5. In L.A.C. No. 993 of 1970 the lands involved were 10 acres 5 gunthas. The Court took Rs. 200 per acre as the annual income and allowed compensation at the rate or Rs. 4,000 per acre.
6. In L.A.C. No. 994 of 1970 land measuring 12 acres 37 gunthas was involved. The Land Acquisition Officer had granted Rs. 1,300 per acre. The Court took Rs. 200 per acre as the annual income and fixed Rs. 4,000 as the compensation per acre. It was alleged in this case that except the notice of payment no other notice was served.

7. The High Court did not discuss the evidence in any of these appeals, but on the basis of their judgment in M.F.A. No. 68 of 1971 fixed the compensation for bagayat lands at Rs. 4,000 per acre and for jirayat or kushki lands at Rs. 2,500 per acre.

8. Before us it was urged that M.F.A. No. 68 of 1971 was concerned with the lands in the village of Badli and that as lands in as many as 34 villages were acquired for the Malaprabha project the prices fixed for lands in one village cannot be made the basis for fixing the compensation in respect of the lands in another village. It was urged that the evidence available in the case which had been discussed by the Civil Judge had not been discussed at all the High Court.

9. It is to be noted that according to the data furnished by the Agricultural Research Station the net annual income was Rs. 87.59 per acre. On that basis the compensation which the parties would have been entitled to in respect of kushki lands will be only about Rs. 1,750 as against the sum of Rs. 2,500 per acre granted by the High Court. The Civil Judge has placed too much reliance on the oral evidence on behalf of the claimants about the income from the lands. That was merely oral evidence and was not supported by any documentary evidence. The best evidence would have been the evidence of sales of similar lands at about the time of the notification under Section 4(1). But no such evidence was produced.

10. In the circumstances we are not able to hold that the High Court's judgment is unsupportable though we feel it would have been better if the High Court had written a more reasoned judgment. Considering also the fact that in three of these appeals, at least, the parties had not appeared before the Land Acquisition Officer and put forward any specific amount as the compensation due they would not have been entitled to any compensation higher than what was awarded by the Land Acquisition Officer. We should add that in one case, that is M.F.A. No. 83 of 1972, it is admitted on behalf of the respondents that a mistake had crept in mentioning Rs. 2,000 instead of Rs. 2,500 an acre. In that appeal alone, that is C.A. No. 1703 of 1973, the judgment of the High Court will be modified to substitute the sum of Rs. 2,000 for Rs. 2,500. Otherwise, the appeals will stand dismissed, in the circumstances of this case there will be no order as to costs.

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