

Shamalbhai Lalubhai Patel

Vs

The Additional Special Land Acquisition Officer

Civil Appeal Nos. 1751 and 1752 of 1968

(H.R. Khanna, V.R. Krishna Iyer JJ)

28.10.1976

JUDGMENT

KHANNA, J. -

1. This judgment would dispose of the two civil appeals 1751 and 1752 of 1968 which have been filed by Shamalbhai Lalubhai Patel against a common judgment of the Gujarat High Court on the basis of a certificate of fitness granted under Article 133(1) (a) of the Constitution, as it existed then. The question involved in those appeals relates to the quantum of compensation in respect of the lands of the appellant acquired for the Western Railway.
2. Civil Appeal 1751 of 1968 relates to the acquisition of land comprised in two survey nos. 332/1 and 329. The notification under Section 4 of the Land Acquisition Act in respect of that land was issued on April 19, 1956. Survey no. 332/1 measures 109 3/4 gunthas, equivalent to 13,279 square yards. It may be stated that 40 gunthas constitute one acre and one guntha is equal to 121 square yards. The Land Acquisition Officer assessed the compensation payable for the land comprised in survey no. 332/1 at the rate of Rs. 90 per guntha. On reference, the civil judge assessed the amount of compensation in respect of that land at the rate of Rs. 121 per guntha, that is Re. 1 per square yard. On appeal by the appellant, the High Court enhanced the amount of compensation to Rs. 150 per guntha.
3. Regarding the land comprised in survey no. 329, which measures 21 gunthas, equivalent to 2541 square yards, the land Acquisition Officer awarded compensation at the rate of Rs. 90 per guntha. On reference, the Civil Judge fixed the amount of compensation at the rate of Rs. 180 per guntha. The High Court on appeal upheld the award of the Civil Judge so far as the land comprised in survey no. 329 is concerned.
4. Civil Appeal 1752 of 1968 pertains to the acquisition of land comprised in survey nos. 333 and 334 measuring 89 gunthas equivalent to 10,769 square yards and 83 gunthas equivalent to 10,043 square yards respectively. Notification under Section 4 of the Land Acquisition Act for the acquisition of this land was issued on March 13, 1958. The Land Acquisition Officer determined the amount of compensation in respect of the above land at the rate of Rs. 100 per guntha. On reference, the Civil Judge assessed the amount of compensation at the rate of Rs. 150 per guntha. The High Court on appeal enhanced the amount of compensation to Rs. 180 per guntha.
5. In addition to the compensation at the above rate, the appellant has also been awarded usual solatium at the rate of 15 per cent.

6. In appeal before us, Mr. Patel on behalf of the appellant has contended that the appellant was entitled to compensation at a rate higher than what he has been awarded by the High Court. In this respect, we find that the High Court has considered the evidence which was brought on record. On consideration of the said evidence, the High Court came to the conclusion that the appellant should be awarded compensation at the rate determined by the High Court. We find no cogent ground to interfere with the said finding of the High Court.

7. It is well established that a person whose land has been acquired under the Land Acquisition Act is entitled to receive compensation computed in terms of the market value of the land on the date of the notification under Section 4 of the Land Acquisition Act. The market value means the price that a willing purchaser would pay to a willing seller for the property, having due regard to its existing conditions with all its existing advantages and its potential possibilities when laid out in the most advantageous manner excluding any advantage due to the carrying out of the scheme for which the property is compulsorily acquired. The disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should be disregarded. There is an element of guesswork inherent in most cases involving determination of the market value of the acquired land, but this in the very nature of things cannot be helped. The essential thing is to keep in view the relevant factors prescribed by the Act [see *Thakur Kamta Prasad Singh (dead) by L. Rs. v. State of Bihar* ((1976) 3 SCC 772)]. As further laid down in that case, if the judgment of the High Court reveals that it has taken into consideration the relevant factors, its assessment of the market value of the acquired land should not be disturbed. After having been taken through various pieces of evidence by Mr. Patel, we find that the High Court has taken the relevant factors into account. The fact that some other view of the matter could also have been taken would not justify interference with the judgment of the High Court. The appeals consequently fail, but in the circumstances without costs.

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