

Raja Srivalgoti Sarvagna Kumara Krishna Yachandra Bachadurvaru

Vs

Special Land Acquisition Officer, City Improvement Trust Board, Bangalore and Others

Civil Appeal Nos. 468 and 469

(P. N. Bhagwati, A. D. Koshal JJ)

16.01.1979

JUDGMENT

BHAGWATI, J. -

1. This appeal arises out of proceedings for determination compensation in respect of acquisition of certain areas of land in survey nos. 6, 9, 10 and 11 under two different notifications issued under Section 4 followed by notifications under Section 6 of the Land Acquisition Act, 1894. The first notification under Section 4 was issued on October 30, 1951 in respect of an area of approximately 4 acres of land, while the second notification under Section 4 was issued on January 28, 1954 in respect of another area of approximately 4 acres, both the areas being out of the same block of land comprising survey nos. 6, 9, 10 and 11. The Land Acquisition Officer awarded Re. 1 per sq. yard for good land and 25 paise per sq. yard for bad land as and by way of compensation for the acquisition under both the notification. The appellant who is admittedly the owner of both the areas acquired under the two notification carried the matter by way of reference to the District Court under Section 18 and the District Court increased the amount of compensation to Rs. 3.75 per sq. yard for good land and Rs. 2 per sq. yard for bad land. This enhancement did not satisfy the appellant and hence they (Sic he) preferred a separate appeal in respect of each acquisition to the High Court. The High Court delivered a common judgment in both the appeals and confirmed the award of compensation made by the District Court. The appellant thereupon filed the present appeals after obtaining special leave from this Court.

2. Though several instances of sales have been relied upon by one party or the other in the appeals, it is not necessary to refer to them for the purpose of deciding what compensation should be awarded to the appellant in respect of the present acquisitions made under the two notifications dated October 30, 1951 and January 28, 1954, because we find that there were two other acquisitions, one earlier and the other later, in respect of land comprised in the same survey nos. 6, 9, 10 and 11 and the awards of the clearest evidence for determining the compensation awardable to the appellant in respect of the present two acquisitions. On April 18, 1946, a notification was issued under Section 4 for acquisition of an area of about 7 acres out of the same block of land comprising survey nos. 6, 9, 10 and 11 and this was followed by a notification under Section 6 and proceedings for determination of compensation in respect of this acquisition were carried right up to this Court and by a judgment dated May 3, 1968 this Court confirmed the award of compensation at the rate of Rs. 6 per sq. yard. There was, subsequent to the present two acquisitions, another acquisition made under a notification dated April 2, 1956 issued under Section 4 in respect of an area of 4 acres 3 gunthas out of the same block of land comprising survey nos. 6, 9, 10 and 11. The appellant claimed compensation in respect of this acquisition at the rate of Rs. 40 per sq. yard, but the District Court on a reference made an award dated September 30, 1969 granting compensation at the rate of Rs. 12

per sq. yard. The State Government preferred an appeal against the award made by the District Court, but the appeal was dismissed and the award of the District Court became final.

3. It will thus be seen that four different were made out of the same block of land comprising survey nos. 6, 9, 10 and 11 and in respect of the first acquisition under notification dated April 18, 1946 the compensation was finally determined at Rs. 6 per sq. yard while in respect of the fourth acquisition made under the notification dated April 2, 1956 compensation was awarded at the rate of Rs. 12 per sq. yard and this award was allowed to become final. We are concerned with the second and the third acquisitions which were made under the respective notifications dated October 30, 1951 and January 28, 1954. Both the District Court and the High Court proceeded on the basis that the rate of compensation in respect of both these acquisitions would be the same, because there was hardly any difference in the market value of the lan comprised in survey nos. 6, 9, 10 and 11 between October 30, 1951 and January 28, 1954. It was also not disputed on behalf of the State Government - at least it so appears from the judgment of the High Court - that the quality of the land acquired under the notifications dated October 30, 1951 and January 28, 1954 was not different from that of the land acquired under the notifications dated April 18, 1946 and April 2, 1956. Now, if the market value of the same quality of land in the same area was Rs. 6 per sq. yard on April 18, 1946 and Rs. 12 per sq. yard on April 2, 1956, it would be reasonable to take the market value on October 30, 1951 and January 28, 1954 at Rs. 9 per sq. yard, being the mean between Rs. 6 and Rs. 12 per sq. yard. We are conscious that this process of determination of market value adopted by us may savour of conjecture or guess, but the estimation of market value in many cases must depend largely on evaluation of many imponderables and hence it must necessarily be to some extent a matter of conjecture or guess. We do not, therefore, think that we would be unjustified in taking the market value of the land acquired under the notifications dated October 30, 1951 and January 28, 1954 at Rs. 9 per sq. yards.

4. We accordingly allow the appeals and direct that compensation for the acquisition under the two notifications dated October 30, 1951 and January 28, 1954 shall be payable to the appellant at the rate of Rs. 9 per sq. yard. The appellant will also be entitled to solatium of 15 per cent on the enhanced compensation awarded to them as also interest at the rate of 6 per cent per annum from the date of taking possession till the date of payment. There will be no order as to costs in the present appeals.

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