

Vijay Kumar Moti Lal

Vs

State of Maharashtra

Civil Appeal No. 680(N) of 1970

(Syed M. Fazal Ali, A. Varadarajan JJ)

12.03.1981

JUDGMENT

FAZAL ALI, J. -

This appeal by certificate is directed against a judgment of the Bombay High Court dated December 3, 1968 arising out of land acquisition proceedings taken under the erstwhile Hyderabad Land Acquisition Act. The admitted position, as found by the High Court, seems to be that the land in dispute is situated in the city of Jalna which is a developing town and in the neighborhood of the plot in dispute a grain market has already been built. Several other municipal plots have also been sold out. Constructions like shops have come up. The land was acquired sometimes in the year 1954 and from the finding of the High Court it appears that the plots almost contiguous to the land in question have great building potentiality. A respectable witness like Mohanlal Deep Chand, who was the President of the Municipality had deposed that the average sale value of such land would be Rs. 15 per square yard. In this connection the High Court observed as follows :

Plot No. 26 which is behind plot No. 27 on the 70 feet road fetched the price at Rs. 15 per square yard. These sales have been deposed to by claimants witness No. 1 Mohanlal Deep Chand who was then the president of the Municipality. These sales have not in fact been challenged on behalf of the state. It is clear from these sales that the situation of these plots had played a very important role in the price obtained by them.

The High Court pointed out that the evidence of Mohanlal Deep Chand had not been challenged on behalf of the State. In these circumstances therefore, this was a very reasonable and adequate basis for determining the compensation of the land in dispute. Again at another place the High Court has held that even if Rs. 15 per square yard was taken for a smaller plot in the locality as the locality was not properly developed, sufficient allowance should be given for reducing the amount of compensation. The High Court accordingly upheld the compensation awarded by the civil court 2 Rs. 2 per square yard. Having regard to the circumstances of this case we find that there is absolutely no warrant for the High court for upholding the rate of Rs. 2 per square yard which was grossly inadequate having regard to the locality; the character of the land; the building potentiality, the coming up of the various constructions and such other factors and more particularly when the High court itself found that the evidence of the President of the Municipality remained unchallenged and was not contested by the State. Thus taking the case at the lowest even if Rs. 15 per square yard is held to be the correct sale value of the land and deducting 1/3rd as the area was to fully developed, the minimum compensation that could be awarded to the appellant would be at the rate of Rs. 10 per square yard. This Court in the case of Tribeni Devi v. Collector of Ranchi has

observed that where an area is not fully developed, a deduction of 1/3rd can be made. In this Connections this court observed as follows : (SCC p. 485 para 5)

In order to develop that area at least the value of 1/3 of the land will have to be deducted for roads, drainage and other amenities.

For these reasons, therefore, we are satisfied that the judgment of the High Court was clearly wrong and did not follow the correct principles in determining the proper compensation to which the appellant was entitled for the land in dispute. We, therefore allow this appeal and enhance the compensation from Rs. 2 per square yard to Rs. 10 per square yard. The appellant will be entitled to the proportionate increase in the interest and solatium as a result of the enhanced compensation awarded by us. In the circumstances of this case, there will be no order as to costs.

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